

RESOLUTION NO. PZ 09-20
Series of 2020

A RESOLUTION APPROVING A LEVEL III DEVELOPMENT APPLICATION FOR A CONDITIONAL USE PERMIT FOR A WHOLESALE TRADE CLASS 1 BUSINESS AT 124 MAIN STREET.

WHEREAS, the Planning and Zoning Commission of the Town of Dillon (“Planning Commission”) has received a Level III Development Application from Breck Booch LLC (the “Applicant”) for a Conditional Use Permit for a Wholesale Trade Class 1 business at 124 Main Street, Lot A, Block M, New Town of Dillon Subdivision, Dillon, Colorado (the “Application”); and

WHEREAS, the Dillon Municipal Code requires a Conditional Use Permit for a Wholesale Trade Class 1 business to operate in the Core Area zone district; and

WHEREAS, following the required notice, a public hearing was held on July 1, 2020, before the Planning Commission on the Application; and

WHEREAS, following the public hearing the Planning Commission 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 proposed development should attach to the approval of the thereof.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO, AS FOLLOWS:

Section 1. That the Planning and Zoning Commission of the Town of Dillon (“Planning Commission”), following the required notice, held a public hearing on July 1, 2020, on the application for a Level III Development Conditional Use Permit from Breck Booch LLC (the “Applicant”) for a Wholesale Trade Class 1 business in the multi-tenant building located at 124 Main Street in the Core Area zone district, Dillon, Colorado (the “Application”), and following said public hearing makes the following findings of fact:

- A. That the Application is complete.
- B. That the Application is for a Wholesale Trade Class 1 business to brew and ferment tea. The Applicant will brew, ferment, flavor and keg the Kambucha for limited on site retail sales for filling growlers for carry-out and for wholesale trade delivery to businesses serving the product.
- C. That the Application complies with the specific requirements of Section 16-5-220 “Conditional use criteria” of the Town of Dillon Municipal Code (the “Code”), as detailed as follows:

1. The use is listed as an allowed conditional use within the zone, or is otherwise identified as a conditional use and is consistent with the intent and purpose of the Comprehensive Plan and applicable zoning district.

Wholesale Trade Class 1 is listed as a Conditional Use in the Core Area zone district.

2. The parcel is suitable for the proposed conditional use, considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.

The site is developed with an existing three (3) story building constructed in 1973 and this criterion does not specifically apply to the Application.

3. The proposed conditional use will not have significant adverse impacts on the air or water quality of the community.

This criterion is not anticipated to apply to this application. Should the brewing and mild fermentation of tea cause any perceptible odors, the Applicant has a contingency plan for the installation of an exhaust system which has already been approved by the property owner according to the Applicant.

4. The proposed conditional use will not substantially limit, impair or preclude the use of surrounding properties for the uses permitted in the applicable zoning district.

This criterion is not anticipated to apply to this application. The use is similar to other such wholesale trade activity in the Core Area zone district and is not anticipated to impact uses permitted in the Core Area zone district. The Wholesale business will also offer limited retail sales on site which are consistent with the zone district and other neighboring uses.

5. Adequate public utilities and services are available or will be made available to the site prior to the establishment of the conditional use.

The existing site is already served by gas, electric, water, and sanitary sewer facilities. The use for the business is not anticipated to negatively impact utilities serving the building. A review of the water and sewer tap fees for the building indicate that the proposed use is consistent with previously assessed tap fees for the building and no additional tap fees are due for the Application.

6. If located on an adjoining lot, the following additional criteria shall be met: the conditional use is parking or storage uses accessory to a primary single-family use.

This criterion does not apply to the Application.

7. If the conditional use is for wholesale trade class 1 or wholesale trade class 2, the following additional criteria shall be met:

a. The proposed conditional use will not produce any noise or vibration issues that have significant adverse impacts on the community and the neighboring property owners and tenants in a multi-tenant building.

The business will have a small walk in cooler which will emit a mild hum a few hours a day. This is not anticipated to have significant impacts on the community or tenants in the multi-tenant building.

b. The proposed conditional use will not produce any smells, odors or noxious fumes that have significant adverse impacts on the community and the neighboring property owners and tenants in a multi-tenant building. The proposed conditional use shall meet all applicable code requirements for ventilation and fire protection.

The brewing of tea should not generate smells that will have significant impacts on the community or neighboring tenant spaces in the multi-tenant building. A contingency plan is in place should an exhaust system become necessary.

c. The proposed conditional use will not produce any storage, loading or delivery activities related to the storage, loading or delivery of finished products or raw materials that have significant adverse impacts on the community and the neighboring property owners and tenants in a multi-tenant building.

The Applicant has one (1) delivery truck which is planned to take deliveries from the production facility at 124 Main Street once a day for distribution to local food and beverage service sites. The loading activities are planned for available parking spaces offered to businesses in the Core Area zone district; there will be no established loading zone. The storage, loading and delivery activities are not anticipated to have significant impacts on the community or neighboring tenants.

d. The proposed conditional use will not cause its employees and vendors to occupy parking spaces intended for retail businesses within two hundred (200) feet of the business.

The Applicant plans to have only one (1) employee at the site at any given time. Parking will be as provided for in the Core Area zone district as open to first come first serve occupancy, until such time that said parking owned by the Town of Dillon takes a new form or is otherwise regulated.

Section 3. That the Planning and Zoning Commission of the Town of Dillon does hereby approve the Application with the following conditions:

1. The Applicant shall maintain a current Business License with the Town of Dillon on an annual basis.
2. The Applicant shall obtain property owner approval and then submit a sign permit application to the Town of Dillon for any signage proposed, whether temporary or permanent. The signage shall conform to the Master Sign Plan approved for the building and the sign regulations set forth in the Dillon Municipal Code.
3. Should the Town Manager determine that the business emanates odors perceived to be offensive to the community or neighboring tenants, then the Applicant shall install a suitable exhaust system capable of mitigating the odor.
4. Loading operations shall not cause negative impacts on the community or neighboring tenants nor impede motor vehicle or pedestrian movements and shall take place in a parking place in the Core Area zone district, and not on a sidewalk or plaza in the Core Area or other area not designated as parking. Should the Town of Dillon's Core Area parking pool available parking or regulations change, the Applicant shall be subject to those changes and regulations.
5. Should the retail sales expand such that onsite consumption takes place, chairs and tables are provided for retail customers, or if the weekly production of fermented tea exceeds seven-hundred and fifty (750) gallons per week, the Town shall re-evaluate the water and sewer tap fees associated with the Application, and the Applicant shall be responsible for paying any additional fees assessed in accordance with the Town Code.

APPROVED AND ADOPTED THIS 1ST DAY OF JULY, 2020 BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO.

**PLANNING AND ZONING COMMISSION,
TOWN OF DILLON**

By: _____
Teresa England, Chairperson

ATTEST:

By: _____
Michelle Haynes, Secretary to the Commission