



**TOWN OF DILLON**  
**Planning and Zoning Commission**  
**Special Meeting**  
**VIA MICROSOFT TEAMS**  
**Dillon Town Hall | 275 Lake Dillon Drive | Dillon, Colorado**  
**Wednesday, February 1, 2023 | 5:30 p.m.**  
**STAFF SUMMARY**

**DATE:** July 3, 2024

**AGENDA ITEM NUMBER:** 6.a.

**ACTION TO BE CONSIDERED:**

**Consideration of Resolution No. PZ 04-24, Series of 2024 (PUBLIC HEARING)**

**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT APPLICATION  
FOR A KINDERGARTEN THROUGH 6<sup>TH</sup> GRADE SCHOOL AT 371 E.  
LABONTE STREET.**

**TIME FRAME:**

- May 23, 2024: The town received an application for a Conditional Use Permit to operate a kindergarten through 6<sup>th</sup> grade school in the Residential Low (RL) zone district.
- June 5, 2024: The Town received the application fee payment.
- July 10, 2024: Planning Commission Public Hearing on the Application.

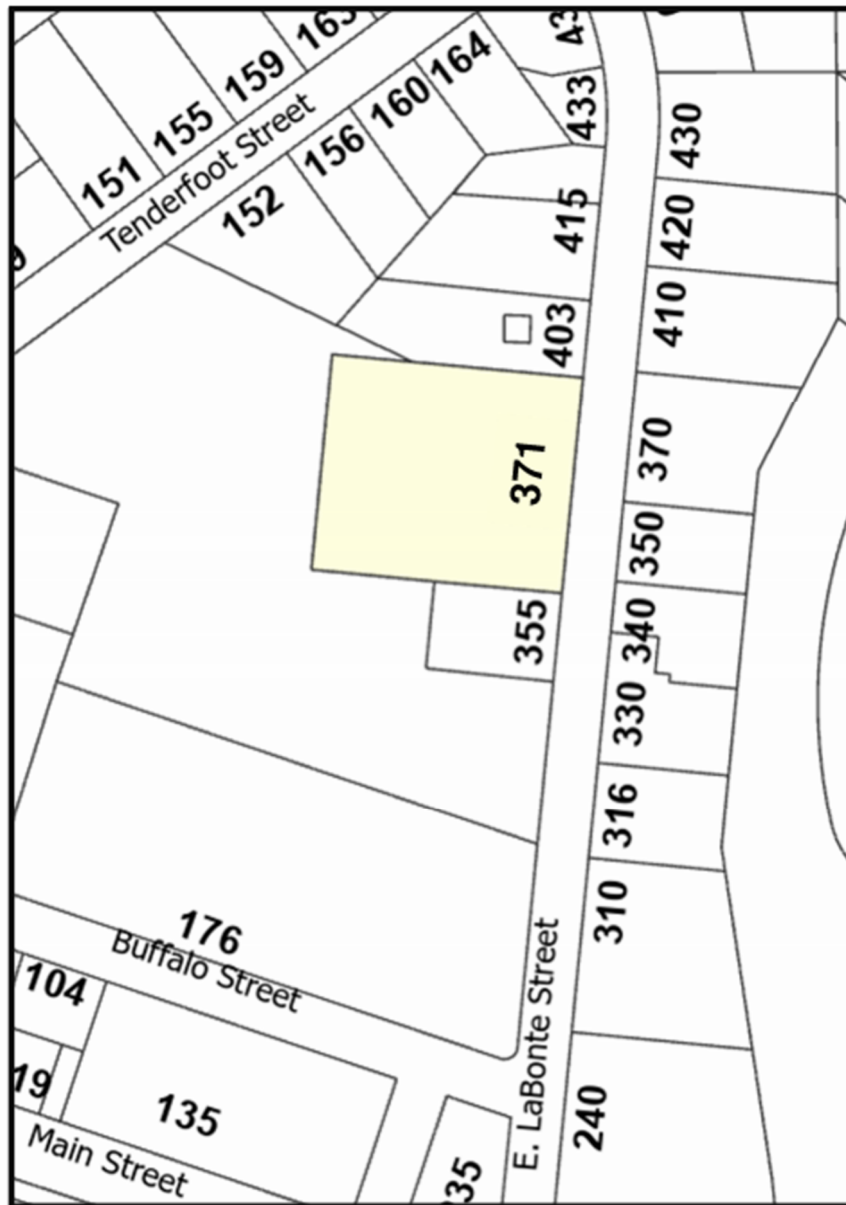
**TOPIC:**

The Town has received a Level III Development Permit Application for a Conditional Use Permit for a school proposed to be located on the basement level of the building located at 371 E. La Bonte Street in the Dillon Community Church building, more specifically described as Lot 6 & 7, Block M, New Town of Dillon Subdivision. The building vicinity map may be viewed in **Figure 1**.

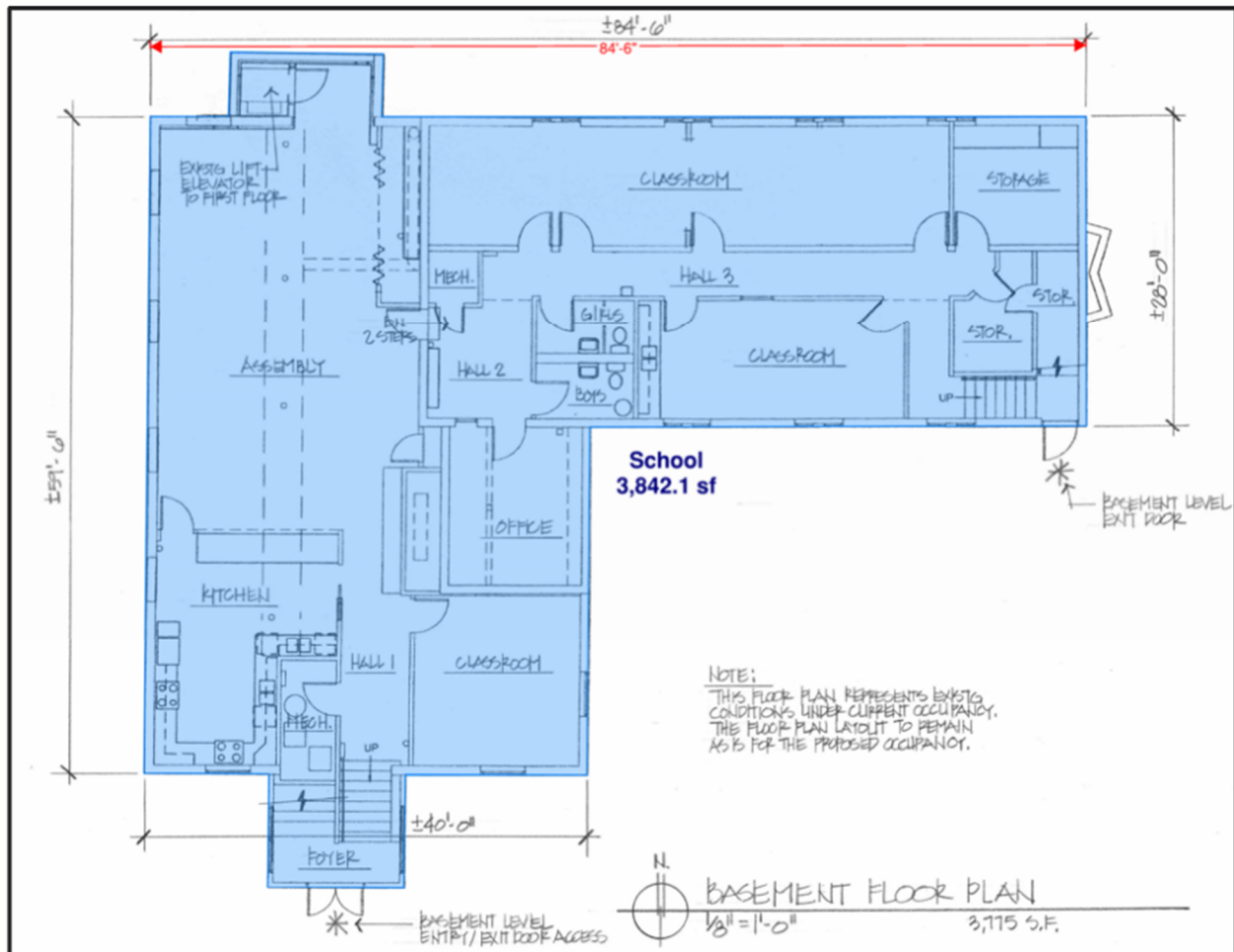
**PROJECT DESCRIPTION:**

- Three Classrooms in the basement level where the child care center once operated. The footprint of the school is presented in **Figure 2**.
- No meals served; bagged lunches only.

- Established traffic pattern for drop-off and pick-up
- Maximum of 50 students without further water and sewer tap fee evaluation and fee assessment.
- All signs require permits.
- Need to coordinate safety plan with Dillon Police Department.
- Building, Health, and Fire permits required.
- Refer to **Exhibit 'A'** of Resolution PZ 04-24, Series of 2024 for the complete plan set.



**Figure 1. 371 E. La Bonte Street Building Vicinity**



**Figure 21. 371 E. La Bonte Street Basement Level School Footprint**

**MUNICIPAL CODE REVIEW:**

Hearing Process:

A Conditional Use Permit is similar to a Level III Development Application in that it requires a public hearing before both the Planning and Zoning. Hearing notices are mailed to residents within 300 feet of the boundary of the application, posted on site, posted at Town Hall, and published in the legal section of the paper of general circulation. Said notices are constrained to a time frame of not less than seven (7) days and not more than fourteen (14) days.

The public hearing is opened after the agenda item is introduced. During the public hearing, the Applicant is afforded the opportunity to present the application to the Commission. Town staff then presents a municipal code and zoning review of the application. The Commission may ask questions of the Applicant and staff and discuss the evidence presented. Written comments received prior to the hearing are provided to the Commission and are read into the record, or incorporated into the record by a motion, second, and vote to do so. The Commission will then

open the public hearing to those in attendance who wish to provide public comments under sworn testimony which they would like to be entered into the record. A sign-in sheet is used to track those who wish to speak. The Commission may ask questions of anyone providing testimony. Prior to closing the public hearing, the Commission shall come to a determination if the meeting needs to be continued to a future date such that additional evidence may be gathered and presented to the Commission. Upon closing the public hearing, the Commission may recommend the Town Council approve or deny the application. They may also ultimately determine that they do need additional information and may continue the meeting to a future date. In the case of a continuance with the hearing closed, a new series of public notification is required. An approval by the Commission means that they recommend the Council approve it.

Hearing Notice:

The mailing was postmarked and mailed on Friday, June 28, 2024; the legal notice ran in the paper on Friday, June 28, 2024; the notice was posted at Town Hall and the site was posted on Friday, June 28, 2024. These posting dates conform to the Code requirement of not less than seven (7) days and not greater than fourteen (14) days prior to the public hearing for the hearing notices to be posted, mailed, and published (DMC § 16-2-300).

Current Zoning:

The property is zoned Residential Low (RL) and a school use is identified as a Conditional Use in the zone.

Adjacent Uses: The property is adjacent to single- and multi-family residential developments to the east, northeast, and southeast, Town Park to the west, the Summit Historical society Museum to the north, and another building associated with Dillon Community Church to the south with the tennis courts beyond.

Review Criteria:

DMC § 16-4-130 of the Dillon Municipal Code provides the following review criteria for a Conditional Use Permit application with the *Applicant responses in italics*. For the complete Code section on Conditional Uses, please see **Appendix 'A'** of this staff summary.

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.

*Yes, the school use is listed as a Conditional Use in the Residential Low (RL) 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 building constructed in 1974-75 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 for the existing building or the proposed school use.*

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.

*The use is similar to other activity on the property continuing and previously operated in the building. The maximum number of students for the Conditional Use Permit review is fifty (50).*

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 school 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 current building has 4.5 EQRs, of which 1.5 are a credit for the previous child care center use.*

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.
  - 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.
  - 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.
  - 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.

*These criteria do not apply to the Application.*

Summary:

The Applicant requests a Conditional Use Permit to operate a K through 6<sup>th</sup> grade school in the RL zone district and the Application appears to satisfy all of the criteria set forth in the Code for a Conditional Use.

Decision:

If the proposed development is in compliance with conditional use criteria, the Planning and Zoning Commission may approve the application. When deemed necessary to ensure that the use meets the conditional criteria for approval, the Planning and Zoning Commission may attach conditions that relate to impacts created by the proposal.

If the proposed development is not in compliance with conditional use criteria, the Planning and Zoning Commission may deny the application.

The Planning and Zoning Commission may also continue the hearing for up to thirty-five (35) calendar days for good cause, or to allow additional information and materials to be submitted that will allow for a comprehensive review. In no event may the Planning and Zoning Commission continue a hearing for more than thirty-five (35) days unless agreed to in writing by the applicant. In the event a hearing is continued, the applicant shall submit any additional materials he or she wishes the Town to consider at least ten (10) days prior to the continued hearing, unless otherwise specified by the Town.

**BUDGET IMPACT:**

None

**STAFF RECOMMENDATION:**

Town staff recommends approval of Resolution No. PZ 04-24, Series of 2024

**MOTION FOR APPROVAL:**

I move we approve Resolution PZ No. 04-24, Series of 2024 with conditions as presented.

**ACTION REQUESTED: Motion, Second, Roll Call Vote.**

Resolutions require the affirmative vote of a majority of the members present.

**DEPARTMENT HEAD RESPONSIBLE:** Ned West, AICP, Sr. Town Planner

***Appendix 'A'***  
***DMC Conditional Use Code Section***

## *Division 2 Conditional Uses*

### **Sec. 16-4-110. Purpose.**

A conditional use is an activity generally similar to other uses permitted within a zoning district, which, because of the manner in which the proposed use could be developed, may not be appropriate in all situations or may require the imposition of special conditions to ensure compatibility with existing and potential land uses within the vicinity. In some instances, conditional uses may be referred to in this Chapter as a special review. In those instances, the special review shall mean a conditional use, and shall be treated as such hereunder.

### **Sec. 16-4-120. Authorization.**

Uses listed as conditional uses within any zoning district may be approved by the Planning Commission, following an application on forms provided by the Town and payment of the fee established by resolution or ordinance of the Town Council, and after at least one (1) public hearing, if the criteria contained in this Division have been satisfied. Conditional uses shall be established and maintained in accordance with the applicable development standards within the zoning district in which the use is located, and any conditions imposed as part of the approval.

### **Sec. 16-4-130. Conditional use criteria.**

The following criteria, in addition to other applicable criteria in this Chapter, shall be used to review and decide conditional use permit applications.

- (1) The use is listed as a 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.
- (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.
- (3) The proposed conditional use will not have significant adverse impacts on the air or water quality of the community.
- (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.
- (5) Adequate public utilities and services are available or will be made available to the site prior to the establishment of the conditional use.
- (6) If the conditional use is parking or storage uses accessory to a primary single-family use and located on an adjoining lot, the following additional criteria shall be met:
  - a. Parking shall not be allowed in any setback of the vacant lot.
  - b. There is no predetermined limit to the number of vehicles allowed on the vacant lot, but the Planning and Zoning Commission, using the perceived capacity as appropriate for the neighborhood, shall determine a maximum number of vehicles.



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- c. If more than two (2) vehicles are parked on the vacant lot, they shall be fully screened in accordance with Section 16-7-30.
  - d. No commercial vehicles are allowed to be parked or stored on the vacant lot.
- (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.
  - 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.
  - 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.
  - 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.

#### **Sec. 16-4-140. Authorization of conditions.**

When deemed necessary to ensure that the use meets the criteria for approval, conditions addressing the following, or related, matters may be imposed:

- (1) Size, height and location of buildings and accessory structures.
- (2) Landscaping when necessary to provide screening from incompatible adjacent uses or from public rights-of-way.
- (3) Retention of existing trees and vegetation for buffering purposes.
- (4) Size, location, screening, drainage and surfacing of driveways, parking and loading areas and street access.
- (5) Size, height, location and materials for the construction of fences to screen the subject property from incompatible adjacent uses or from public rights-of-way.
- (6) Location and intensity of outdoor lighting.
- (7) Hours of operation or conduct of particular activities.
- (8) Abatement, mitigation or prevention of nuisances.
- (9) Availability and improvement of urban services, including street improvements, dedication of street right-of-way, traffic signs and signals, sewer, storm drainage, water and turnouts and shelters for mass transportation, provided that the condition applies only to the subject property or public right-of-way or easement abutting the subject property, or impacted by the subject property.
- (10) Conditions may be imposed that require that all or part of the proposed development or use be deferred until certain events occur, such as the availability to the subject property of certain levels of service required to meet Town standards and provide for the health, safety and/or welfare of the community.

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- (11) Conditions may be imposed that require that any and all conditions imposed under this Section be recorded in the deed of records with the County Clerk and Recorder.

**Sec. 16-4-150. Limits on conditions.**

The following limits and requirements apply to conditions imposed pursuant to this Division:

- (1) Conditions shall be clear and objective; shall be reasonably related to the public health, safety and welfare; and shall be designed to reasonably effectuate their intended purpose.
- (2) If the dedication of street right-of-way or street improvements are required as provided in this Division, the provision of the dedication, improvements or funding of such shall be deferred until a building permit is obtained.

**Sec. 16-4-160. Transfer of conditional use permit.**

Unless otherwise provided in the final decision granting the conditional use permit, any conditional use permit granted pursuant to this Chapter shall run with the land, and shall automatically transfer to any new owner or occupant subject to all conditions of approval.

**Sec. 16-4-170. Duration of permit.**

- (a) Except as provided in subsection (b), a conditional use permit shall expire if an applicant fails to obtain a building permit to construct the conditional use within one (1) year of the date of conditional use permit issuance.
- (b) If the conditional use permit is issued in connection with an approved development permit, the duration of the conditional use permit shall be concurrent with the duration of the development permit pursuant to Division 11 of Article II of this Chapter.

(Ord. 04-20 §5)