

**PLANNING AND ZONING COMMISSION ACTION ITEM  
STAFF SUMMARY  
January 6, 2016 PLANNING AND ZONING COMMISSION MEETING**

**DATE:** December 21, 2015

**AGENDA ITEM NUMBER:** 4

**ACTION TO BE CONSIDERED:**

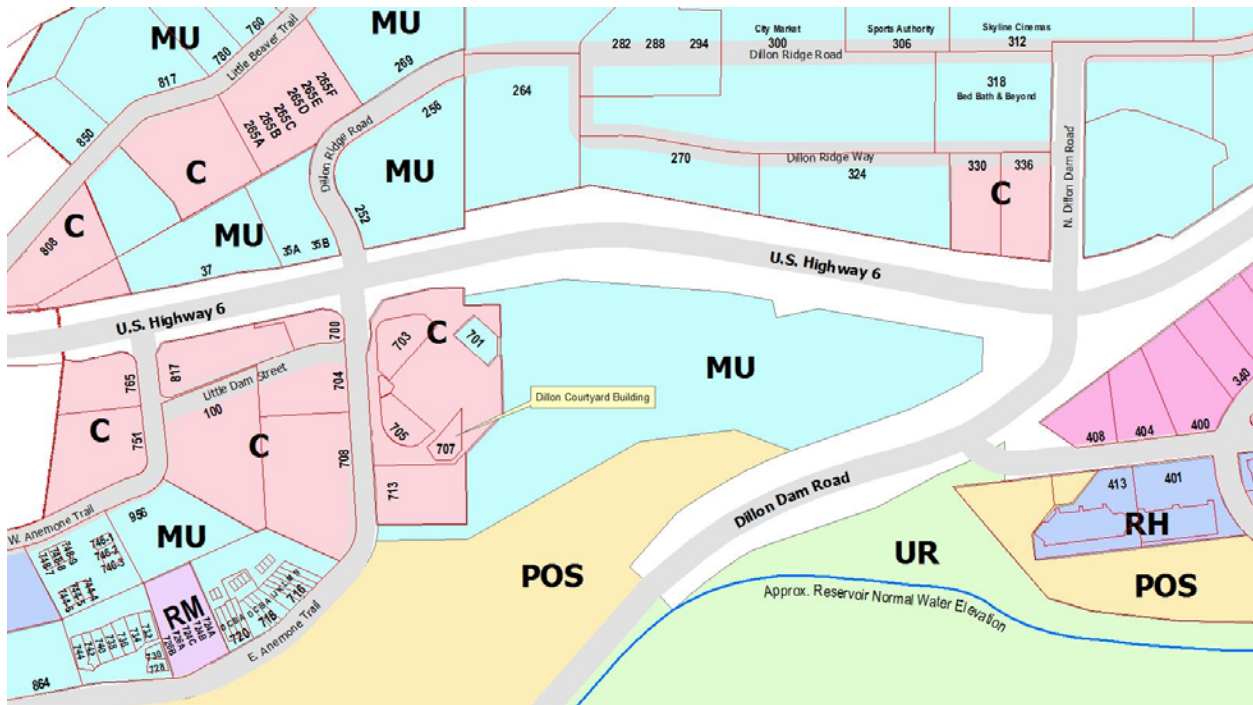
Consideration of a Resolution No. PZ 01-16, Series of 2016: **A RESOLUTION BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO, APPROVING A LEVEL III DEVELOPMENT APPLICATION FOR A CONDITIONAL USE PERMIT FOR RESIDENTIAL USE IN THE COMMERCIAL ZONING DISTRICT ON LOT 4R, RED MOUNTAIN PLAZA SUBDIVISION, LOCATED AT 707 E. ANEMONE TRAIL, DILLON, COLORADO; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**PUBLIC HEARING.**

**SUMMARY:**

The Town received a Level III Development application from Charles Arnold for a Conditional Use Permit for an additional residential unit in Unit 3 of the Dillon Courtyard Building in the Red Mountain Plaza Subdivision, located at 707 E. Anemone Trail. A residential studio unit was approved with the building's prior approval on July 14, 1999; this would be a second residential space in the upper level of the building.

The applicant envisions the potential for a live / work style unit. Town Code requires a Conditional Use Permit for a residential use in the Commercial (C) zoning district. Should the potential tenant operate a Home Occupation, subject to the regulations stipulated in Section 16-4-70 of the Dillon Municipal Code, a Home Occupation permit application would be reviewed under a required, separate review process.



*Dillon Courtyard Building Vicinity Zoning Map*

**Project Overview:**

*Zoning:*

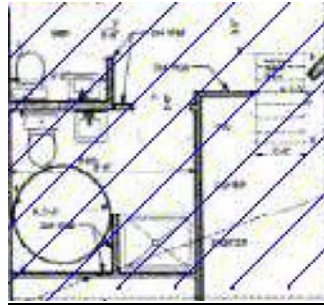
Commercial (C) per the adopted 2013 Town of Dillon Zoning Map:

*Current Land Use:*

The Red Mount Plaza Subdivision contains four buildings, two of which have a mixed use commercial and residential design, another being a single story restaurant building, and the other a two story commercial building. The subject Dillon Courtyard Building is mixed use in design, as it contains retail and office uses on the ground level, with an existing residential use on the upper level. The upper level contains the existing small residential studio with access from the rear of the building by an exterior stair (approved with 1999 approval), and a large vacant space on the upper level (formerly an architectural firm), accessed from a stairwell in an entryway off of the main level. The large space proposed for this Conditional Use has been vacant for several years, yet as is currently configured with a kitchen and bathroom with shower, it is well suited for the proposed use.



The two bathrooms, one with a shower, are currently configured as depicted in the plan provided by the applicant.



*Dillon Courtyard Building, Unit 3 Configuration of Two Bathrooms*

*Parking Analysis:*

Retail, Office, Commercial: 1 space required per every 400 square feet

Residential: 1.5 spaces per studio, and 2 spaces per 2 bedroom or greater

*Parking Required for the Building:*

Main Level:

3441 square feet commercial = 8.6 parking spaces required

Upper Level:

1 Studio Residence = 1.5 parking spaces required

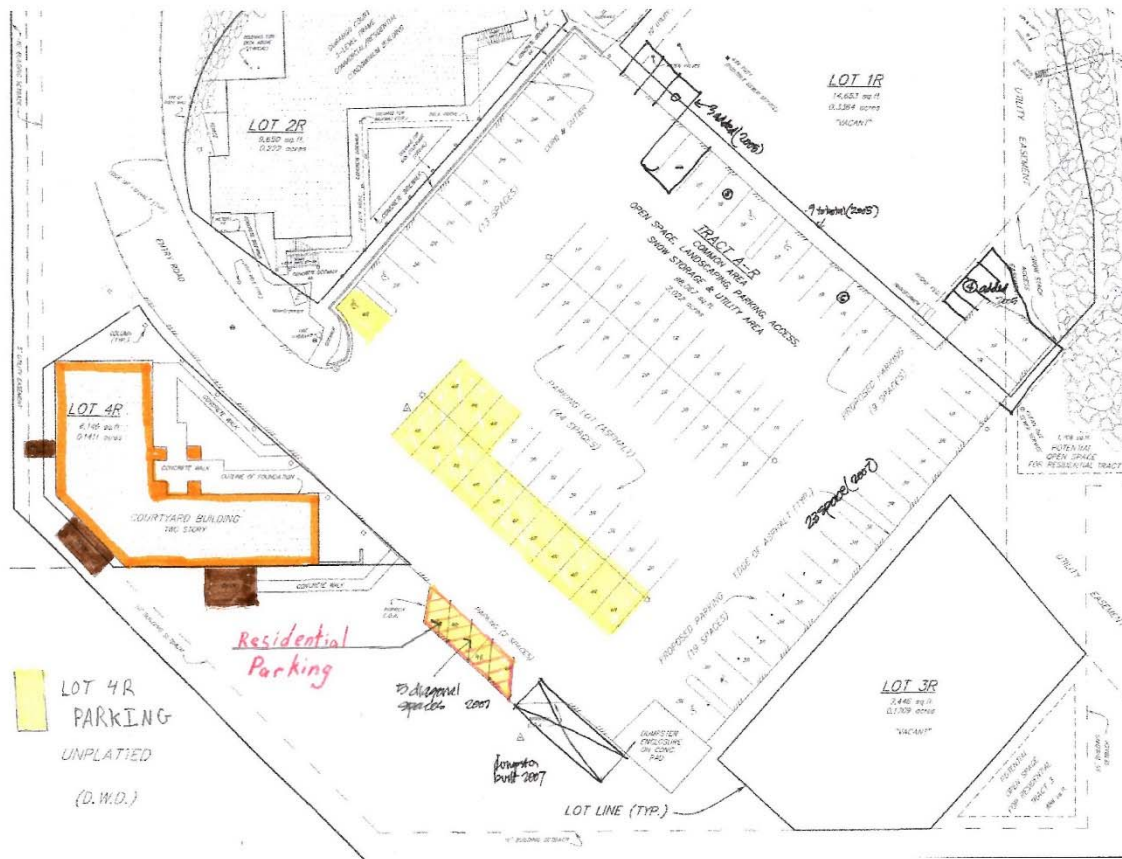
1 Residence with 2 or more bedrooms = 2.0 parking spaces required

Total Parking Spaces Required:  $8.6 + 1.5 + 2.0 = 12.1$ , Round up = **13** spaces

*Parking Dedicated to the Dillon Courtyard Building:*

Seventeen (17) Total, See Exhibit A – Parking Spaces:

- 13 Commercial Parking Spaces (includes 1 Accessible Parking Space)
- 4 to be Dedicated to the Residential Use



*Dillon Courtyard Building Dedicated Parking*

**Preliminary Water / Sewer Tap (EQR) Analysis:**

Prior Assessment:

Existing Commercial and Residential Uses: **4.105 EQR's**

Additional Residential Use:

	<b>Gross SF</b>	<b>EQR Calculator</b>	<b>EQR's</b>
<b>Main Level</b>			
Commercial	3441	0.65 EQR's / 1000 SF	2.237
<b>Upper Level</b>			
Residential			
Studio	604	0.65 EQR's / Studio	0.650
3-Bedroom	2688	1.05 EQR's / 3-Bedroom	1.050
<b>Total</b>	<b>6733</b>		<b>3.937</b>

The approval of this Conditional Use Permit application is conditioned upon a building assessment

of all uses in the building and an evaluation of the current EQR's assessed. Any additional required EQR's shall be paid prior to the issuance of the Permit.

**Commercial Zoning District Considerations:**

The following shall be considered for a Conditional Use Permit for a residential use in the Commercial (C) zone, per Section 16-3-160 of the Dillon Municipal Code.

- a. The residential use does not exceed forty percent (40%) of the square footage of the total project nor exceed fifty percent (50%) of the square footage of any one (1) building within a project.
  1. *Per the Summit County Assessor's Office, the first floor of the Dillon Courtyard Building is 3441 square feet, and the second floor is 3292 square feet. The second floor contains all of the residential use, which is less than 50% of the total square footage for the building.*
  2. *The Durango Court Building in the Red Mountain Plaza contains residential use in a mixed use style with the residential above the commercial use. The other two buildings in the subdivision, Red Mountain Grill and the Masthead Building, do not contain any residential use. The residential use in the total project, Red Mountain Plaza Subdivision, is less than 40%, with the total percentage of residential use in the project being approximately 33% with the addition of the proposed unit in the Dillon Courtyard Building. See the following table for the analysis of the Red Mountain Plaza Subdivision project as a whole, considering this application, for the 33% determination.*



2. *The existing other residential space is accessed by an exterior stair on the back of the building, away from the primary commercial parking lot serving the building, and is entirely on the upper level. The bottom of the stairs are located adjacent to the dedicated residential parking spaces.*
- c. The residential uses are provided with private yards or outdoor open space areas, a minimum of two hundred (200) square feet in size per unit, located immediately adjacent to the residential units. This may be on-grade or provided through the use of decks and/or balconies.
1. *The proposed residential unit has two (2) decks which are accessed from doorways off of the upper level, on the back sides of the building. The near grade decks provide a combined 250 SF of open space dedicated to the residential use, with additional ground level dedicated open space on the sides of the deck. Grade changes from the front to the back of the building, easily afford access to the ground surface on the back of the building from the upper level. The parcel is adjacent to undeveloped, Mixed Use (MU) and Commercial (C) zoned land owned by Denver Water to the east and south, to which the residential decks open.*
  2. *The existing residential unit also has its own deck and also backs to the undeveloped Denver Water land.*
- d. Parking for the residential uses shall be distinct from any other parking on-site, shall be in a separate area whenever possible and shall be signed for the use of the residents only. No required residential parking may be off-site, nor shall its construction be deferred to a later date.
1. *The Dillon Courtyard building has a total of 17 parking spaces dedicated to it. Of those spaces, four (4) are distinctly separated.*
  2. *The applicant, through their parking analysis, has shown that the parking dedicated to the building satisfies the parking requirements. The building will have 3441 SF of office / retail / commercial occupants, requiring 9 parking spaces*
  3. *The existing residential unit has dedicated parking, and the proposed residential unit will also have parking dedicated to its use through signage. A total of 4 dedicated parking spaces are required as a condition of approval of this Conditional Use Permit.*

**Conditional Use Criteria:**

The following criteria must be considered when reviewing a Conditional Use Permit application, in accordance with Section 16-5-220 of the Dillon Municipal Code:

- a. 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.
  1. *The use is listed as a Conditional Use in the Commercial (C) zone*
  2. *The Comprehensive Plan supports utilizing existing spaces to their greatest potential to encourage full time residents and thriving businesses. The current*



*space is underutilized as it has not been occupied for several years. The proposed residential unit, with potential for a live / work unit, meets the Comprehensive Plan objectives of providing residential uses in close proximity to existing mass transit systems, encouraging an increase in full time residences in the Town, and providing a viable small business opportunity with a potential, small retail component. The proposed Conditional Use Permit for a residential use on the upper level of a building in the commercial zone is consistent with Comprehensive Plan objectives of increasing opportunities to have people live where they work in the Dillon community.*

- b. The parcel is suitable for the proposed Conditional Use, considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.
  1. *The site is already developed, and no new construction is proposed for this application.*
  2. *The existing site conditions and natural features enhance the proposed residential use on the upper level, as the topography provides for access to the outdoors from the second level on the rear of the building, which is well suited in providing private leisure space for the inhabitant.*
- c. The proposed Conditional Use will not have significant adverse impacts on the air or water quality of the community.
  - *As the proposed residential unit requires no changes to the site, there are no anticipated environmental impacts.*
- d. 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 applicant is requesting one additional residential unit in a complex that already has a mix of residential and commercial uses. The proposed upper level residential unit, with potential for a live / work style tenant, is compatible with the existing uses in Red Mountain Plaza, and maintains an allowable ratio of commercial versus residential uses in the Commercial (C) zoning district. The addition of one residential unit, requiring 2 additional dedicated parking spaces is not anticipated to substantially limit available parking for other occupants and users of the Red Mountain Plaza businesses and residences.*
- e. Adequate public utilities and services are available or will be made available to the site prior to the establishment of the conditional use.
  - *All required utilities and services are in place, as this is an existing building*

*The following additional criteria are listed in the Dillon Municipal Code as criteria to be considered when analyzing a Conditional Use Permit application; however, these criteria are **NOT APPLICABLE** to this application. They are included here for information only. They are not included in the Resolution.*

- f. 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:
  1. Parking shall not be allowed in any setback of the vacant lot.
  2. 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.
  3. If more than two (2) vehicles are parked on the vacant lot, they shall be fully screened in accordance with Section 16-7-30.
  4. No commercial vehicles are allowed to be parked or stored on the vacant lot.
- g. If the conditional use is for wholesale trade class 1 or wholesale trade class 2, the following additional criteria shall be met:
  1. 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.
  2. 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.
  3. 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.
  4. 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. (Ord. 10-00 §2; Ord. 05-04 §6; Ord. 05-13 §7)

Following are conditions that Town Staff recommends be attached to the Conditional Use Permit for the additional residential unit, Unit 3, in the Dillon Courtyard Building:

1. Four (4) dedicated parking spaces shall be established with signage. The dedicated parking spaces shall be those four (4) parking spaces that are adjacent to the northern side of the building, and which are separated from the larger parking field of the parking lot.
2. No residential use may occupy the lower level of Unit 3 of the Dillon Courtyard Building. The entryway / gallery space may be utilized as a component of a Home Occupation

wherein retail sales may be displayed and sold from the entry level to Unit 3 of the main level of the Dillon Courtyard Building.

3. An occupant operating a Home Occupation shall obtain a Home Occupation Permit from the Town of Dillon.

4. The issuance of a Conditional Use Permit for a residential use in the upper level of Unit 3 in the Dillon Courtyard Building does not preclude Unit 3 from being used solely as a commercial space in the future.

**STAFF RECOMMENDATION:**

Staff recommends approval of Resolution PZ 01-16, Series of 2016.

**PUBLIC HEARING:**

A **Public Hearing** is required for this resolution.

**PLANNING AND ZONING COMMISSION ACTION:**

Upon Closing the Public Hearing, the Planning and Zoning Commission may approve the application, choose to deny the application, or may continue the review of this application at a future meeting and request additional information.

**ACTION REQUESTED:**

Motion, Second, Roll Call Vote.

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

**STAFF MEMBER RESPONSIBLE:** Ned West, Town Planner

**RESOLUTION NO. PZ 01-16**  
**Series of 2016**

**A RESOLUTION BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO, APPROVING A LEVEL III DEVELOPMENT APPLICATION FOR A CONDITIONAL USE PERMIT FOR RESIDENTIAL USE IN THE COMMERCIAL ZONING DISTRICT ON LOT 4R, RED MOUNTAIN PLAZA SUBDIVISION, LOCATED AT 707 E. ANEMONE TRAIL, DILLON, COLORADO; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, the Town of Dillon has received a Level III development application for a Conditional Use Permit for a residential use in the Commercial (C) zoning district at 707 E. Anemone Trail, Dillon, Colorado; and

**WHEREAS**, following the required notice, a public hearing was held on January 6, 2016, before the Planning and Zoning Commission of the Town of Dillon on a Conditional Use Permit application for a residential use located at 707 E. Anemone Trail, Unit 3, Dillon, Colorado, more specifically know as Unit 3, Lot 4R Red Mountain Plaza Subdivision; and

**WHEREAS**, following the public hearing the Planning and Zoning Commission of the Town of Dillon has made certain findings of fact regarding the application; and

**WHEREAS**, the Planning and Zoning Commission of the Town of Dillon 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 application for the Level III conditional use permit.

**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, following the required notice, held a public hearing on January 6, 2016, on the application for a Conditional Use Permit for a residential use configured as a live / work unit in the Commercial (C) zoning district at 707 E. Anemone Trail, Unit 3, Dillon, Colorado, and following said public hearing makes the following findings of fact:

A. That the application for the conditional use permit for a residential use in the Commercial (C) zone is complete.

1. *The application details the location of the proposed residential Unit 3, its access, and its private open space for the residential user on the upper level of the Dillon Courtyard Building in the Red Mountain Plaza Subdivision.*

2. *The applicant has provided supporting documentation detailing relative square footages of commercial and residential uses in the building, provided a parking analysis indicating that surplus parking exists, and provided additional information in support of the Conditional Use Permit.*

B. That the proposed Conditional Use meets the general criteria set forth in Chapter 16 “Zoning”, Article III “Zoning Districts”, of the Dillon Municipal Code of the Town of Dillon, Colorado, as stipulated in Section 16-3-160 Commercial (C) Zone, Section 4 “Residential uses”:

1. A Conditional Use Permit for the proposed residential use in the existing Dillon Courtyard Building is consistent with the zoning provisions of the Commercial (C) zoning district.

- a. *Residential uses are permitted in the Commercial (C) zoning district upon issuance of a Conditional Use Permit.*

2. The residential uses do not exceed forty percent (40%) of the square footage of the total project nor exceed fifty percent (50%) of the square footage of any one (1) building within a project.

- a. *The proposed residential use will make the building approximately 49% residential use, and the whole Red Mount Plaza project will have approximately 33% residential use. These values fall below the threshold provided by the Dillon Municipal Code of 50% maximum residential use for a building in the Commercial (C) zone, and 40% maximum residential use for a multi-building project.*

- b. *The residential stairway landing and access / gallery area for Unit 3 on the main level of the Dillon Courtyard Building is constrained to commercial uses only.*

3. The residential uses are located either above the first floor or, if located on the first floor, do not occupy, in the determination of the Commission, a primary building facade, which is generally those facades that face the primary commercial parking lot intended to serve the project, or face public rights-of-way from which pedestrian access to the commercial or other approved primary uses is provided.

- a. *The proposed residential use does not occupy the primary façade of the building on the first floor; the residential use is dedicated to the upper level of the building, and the entryway is located away from the street frontage within the ‘courtyard’ of the front of the building.*

4. The residential uses are provided with private yards or outdoor open space areas, a minimum of two hundred (200) square feet in size per unit, located immediately adjacent to the residential units. This may be on-grade or provided through the use of decks and/or balconies.

- a. *Two Hundred and Fifty (250) square feet of private, near ground level decks are allocated for the proposed residential unit, with access from the decks to additional ground level open space.*

5. Parking for the residential uses shall be distinct from any other parking on-site, shall be in a separate area whenever possible and shall be signed for the use of the residents only. No required residential parking may be off-site, nor shall its construction be deferred to a later date.

- a. *Nine (9) parking spaces are required for the commercial use in the building, and four (4) are required for the residential use. Seventeen (17) parking spaces are dedicated to the Dillon Courtyard Building. See Exhibit A attached to this Resolution.*

- b. *Dedicated parking exists for the current residential use in the building, and additional dedicated parking is proposed, for a total of four (4) dedicated residential spaces in an area separate from the primary parking field of the development.*

C. That the proposed Conditional Use meets the criteria set forth in Article V “Planned Unit Development”, Division 3 “Conditional Uses”, Section 16-5-220 “Conditional Use Criteria”, as follows:

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.

- a. *The use is listed as a Conditional Use in the Commercial (C) zone. The Comprehensive Plan supports utilizing existing space to its greatest potential to encourage full time residents and thriving businesses. The proposed live / work unit meets the Comprehensive Plan objectives of providing residential uses in close proximity to existing mass transit systems, encouraging an increase in full time residences in the Town, and providing a viable small business opportunity with a potential retail component. It also maintains viable commercial space within the project.*

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.

- a. *The site is already developed, and no new construction is proposed for this application. The existing site conditions and natural features enhance the proposed residential use on the upper level, as the topography provides for access to the outdoors from the second level on the rear of the building, which is well suited in providing private leisure space for the inhabitant.*

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

- a. *As the proposed residential unit requires no changes to the site, there are no anticipated environmental impacts.*

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.
  - a. *The applicant is requesting one additional residential unit in a complex that already has a mix of residential and commercial uses. The proposed live / work style unit is compatible with the existing uses in Red Mountain Plaza.*
5. Adequate public utilities and services are available or will be made available to the site prior to the establishment of the Conditional Use.
  - a. *All required utilities and services are in place, as this is an existing building*
  - b. *These criteria do not apply to this application.*

D. That Conditional Use Permits shall transfer in ownership and thus run with the land in accordance with Section 16-5-250 of the Dillon Municipal Code.

Section 2. That the Planning and Zoning Commission of the Town of Dillon does hereby approve a conditional use permit for a residential use in the Commercial (C) zoning district at 707 E. Anemone Trail, Unit 3, Dillon, Colorado with the following conditions:

1. Four (4) dedicated parking spaces shall be established with signage. The dedicated parking spaces shall be those four (4) parking spaces that are adjacent to the northern side of the building, and which are separated from the larger parking field of the parking lot.
2. No residential use may occupy the lower level of Unit 3 of the Dillon Courtyard Building. The entryway / gallery space may be utilized as a component of a Home Occupation wherein retail sales may be displayed and sold, or some other facet of a Home Occupancy may exist in the entry level to Unit 3 of the main level of the Dillon Courtyard Building.
3. An occupant operating a Home Occupation shall obtain a Home Occupation Permit from the Town of Dillon.
4. The issuance of a Conditional Use Permit for a residential use in the upper level of Unit 3 in the Dillon Courtyard Building does not preclude Unit 3 from being used solely as a commercial space in the future.

**APPROVED AND ADOPTED THIS 6<sup>th</sup> DAY OF JANUARY, 2016 BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO.**

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

By: \_\_\_\_\_  
Nathan Nosari, Chairperson

ATTEST:

By: \_\_\_\_\_  
Debbie Wilkerson, Secretary to the Commission