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Minturn Planning Commission
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Conditional Use Permit Hearing

Conditional Use Permit for New Distillery 161 Main Street and 161 Nelson Avenue

Hearing Date:	February 5, 2025
File Name and Process:	Minturn Whisky Company Distillery Final Plan and Conditional Use Permit Review
Owner/Applicant:	Stefanie and Spence Neubauer
Representative:	Robert Creasy
Legal Description:	Mackedon & Rathburns Block C Lot 1 and Part of Lot 2
Address:	161 Main Street and 161 Nelson Avenue
Zoning:	Old Town Character Area – 100 Block A Zone District
Staff Member:	Madison Harris, Planner I
Recommendation:	Approval, with Conditions

Staff Report

This report includes both Design Review Board criteria and findings as well as Conditional Use Permit criteria and findings. Staff respectfully requests the Town Council focus their review on the Conditional Use Permit analyses by staff starting on page 7 of this staff report and the Conditional Use Permit findings on page 6.

I. Summary of Request:

The Applicants, Spence and Stefanie Neubauer, request a Conditional Use Permit review of a new, 3,597 square foot distillery located at 161 Main Street and 161 Nelson Avenue in the Old Town 100 Block A Zone District. The Planning Commission acting as the Design Review Board have approved the design plans of the distillery. The Applicant has provided a relatively complete and thorough set of site, landscaping, and architectural plans allowing staff and the DRB to conduct a final plan level review of the project.

Proposed Plans

The plans show a two level structure with a max height measured to the midpoint of the roof of 23 feet above proposed grade. The height of the proposed structures appear to be within the maximum 35-foot allowable within the Old Town 100 Block A Zone District.

Additionally, the massing, forms, and scale of the proposed structure, as well as proposed exterior materials, textures and detailing also appear to achieve the design objectives of Appendix B – Design Guidelines and Standards.

Parking is not required for a commercial building within the Old Town 100 Block A Zone District, however there is one loading space provided.

According to staff's analysis of development standards and dimensional limitations in Section III below, the project appears to meet the Town's standards.

Staff believes that the Applicant has provided a complete, detailed set of plans necessary to complete a thorough final plan review.

Staff and the Planning Commission are **recommending approval, with conditions.**

II. Summary of Process and Code Requirements for DRB:

This is a final plan-level of review for a new commercial structure on a lot within the Town of Minturn. This is a formal hearing providing the Applicant and staff the opportunity to discuss the proposal with the Planning Commission, acting as the Design Review Board, and to address the DRB's concerns or feedback regarding suggested revisions to the project.

If the DRB feels that the plans are complete, appropriate, and meet the intent and purposes of the Minturn Municipal Code, Chapter 16, the DRB has the option to take final action to approve or approve with specific conditions and giving the Applicant and staff clear direction on any recommended revisions to the plans.

A variance has already been approved via Resolution 51 – Series 2024 to allow encroachment into the rear setback.

Design Review Process

Appendix 'B' of the Minturn Municipal Code, Section 16-21-615 - *Design Review Applications*, subsection "d" below outlines the criteria and findings necessary for DRB review and approval of all new, major development proposals:

(d) Administrative procedure.

(1) Upon receipt of a completed and proper application, the application for Design Review will be scheduled for a public hearing. The hearing will be conducted in accordance with the procedures set forth in this Chapter.

(2) Criteria and findings. Before acting on a Design Review application, the Planning Commission, acting as the Design Review Board (DRB), shall consider the following factors with respect to the proposal:

a. The proposal's adherence to the Town's zoning regulations.

- b. *The proposal's adherence to the applicable goals and objectives of the Community Plan.*
 - c. *The proposal's adherence to the Design Standards.*
- (3) *Necessary findings. The Design Review Board shall make the following findings before approving a Design Review application:*
- a. *That the proposal is in conformance with the Town zoning regulations.*
 - b. *That the proposal helps achieve the goals and objectives of the Community Plan.*
 - c. *That the proposal complies with the Design Standards.*

Staff suggests that the final plans for 161 Main Street and 161 Nelson Avenue meet or can be revised to meet the required findings 'a,' 'b,' and 'c' or subparagraph 3 – *Necessary findings*.

III. Zoning Analysis:

Zoning

The subject property is located within the “Old Town Character Area” 100 Block: A Zone District, described as follows:

- (a) *The 100 Block Commercial Zones are characterized by a compact retail/commercial core area bisected by Highway 24. The area consists of businesses and residences with an identity of the historic commercial core that is distinct from other parts of the community.*
- (b) ***The purpose of this area is to provide convenient commercial services to residents and visitors and to promote the development of the Town's primary retail commercial district.** Accommodation of sales tax-generating commercial uses and non-street level residential units can enhance Old Town vitality while maintaining the visual character and scale. **Street level space within the 100 Block Commercial Zones shall be dedicated to retail uses.** Non-street level space within the 100 Block Commercial Zones may be used for compatible retail, office, and residential uses.*
- (c) ***The 100 Block Commercial Zones should function as a pedestrian shopping corridor.** Buildings shall orient toward sidewalks and pedestrian areas with storefront windows and main entrance doors. **The scale of buildings both in terms of height and width should encourage transparency, pedestrian engagement, and facilitate pedestrian movement not only along Highway 24 but also between Highway 24, Williams Street and Eagle Street and along all streets in the 100 Block.***
- (d) *The small town historic main street character will be maintained by keeping in scale with the original plat of twenty-five-foot by one hundred-foot lots and one- to two-story building frontages along Highway 24. Large monolithic buildings and "strip" retail areas are not allowed. New development in the 100 Block shall follow the standards and guidelines provided in Appendix B which seeks to ensure new structures maintain compatibility with historic structures while bringing new uses to increase vitality.*

- Town of Minturn Town Code Section 16-6-35

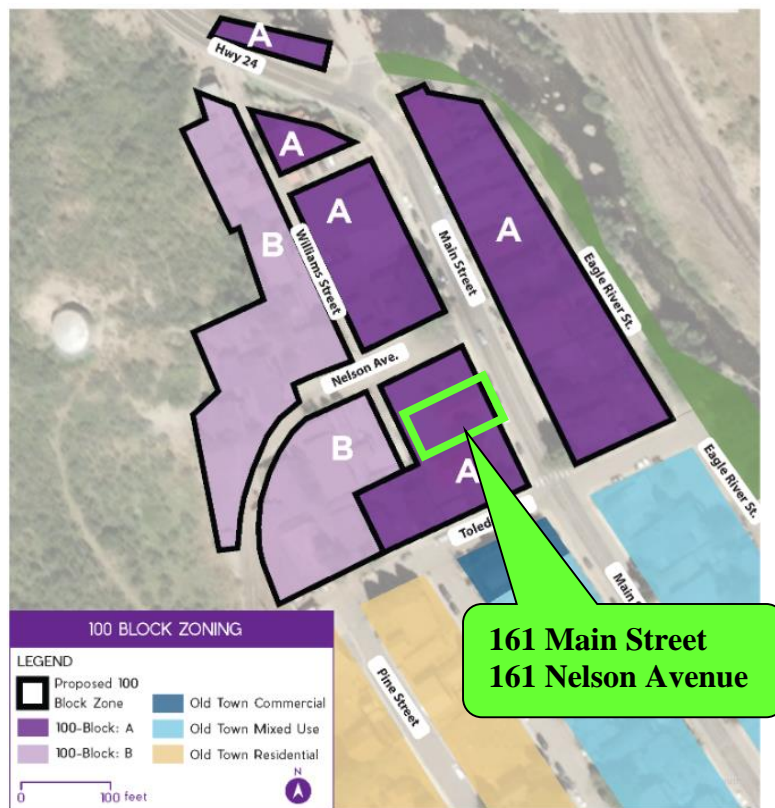


Figure 1: 100 Block Zoning Map

Dimensional Limitations and Development Standards

The following table summarizes the lot, development and dimensional standards and limitations applicable to the subject property pursuant to Sections 16-2-40. - *General lot requirements and dimensional standards* and 16-16-20 – *Parking Required for Residential and Lodging Uses*.

Regulation	Allowed/Required	Proposed/Existing
Minimum/Maximum Lot Area:	2,500 / 7,500 sq. ft.	4,990 sq. ft. (.115 ac.)
Maximum Building Height:	35 feet	23 feet*
Minimum Front Setback:	5 ft. minimum / 20 ft. maximum 15 ft. minimum for 40% of lot frontage	5 feet / 15 feet
Minimum Side Setback:	5 feet	5 feet
Minimum Rear Setback:	30 feet	10 feet**
Maximum Lot Coverage:	80% (3,992sq. ft.)	3,092 sq. ft. (61.96%) Proposed
Maximum Impervious Coverage:	90% (4,491 sq. ft.)	4,401 sq. ft. (88.2%) Proposed
Minimum Snow Storage Area:	5% of Lot	269 sq. ft.

	(4,990 sq. ft. x .05 = 249.5 sq.ft.)	
Parking:	0 spaces	1 space

* Sec. 16-17-60. – Building height exceptions states that height limitations in Chapter 16 shall not apply to cupolas, however they shall not exceed the maximum building height by more than ten (10) feet. The roof is measured at 23 feet with an eight foot four inch (8 ft. 4 in.) cupola on top of that, well within the 35 foot allowable height in 100 Block: A.

** Resolution 51 – Series 2024 approved a variance allowing for relief from the rear setback from thirty feet (30') to ten feet (10') for the first floor of the building measured to a fourteen foot (14') eave height and relief from the rear setback from thirty feet (30') to twenty feet (20') for the second floor of the building measured to a twenty foot (20') eave height.

IV. Applicable Standards and Design Guideline Criteria:

Design

In addition to the development standards listed above, the following general design principles are provided for reference.

Final Site, Grading and Drainage Design

The design guidelines encourage designs that integrate or account for snow storage and snow shed from roof structures, along with ensuring that the orientation of buildings – to street frontages and neighboring properties – is considered.

The proposed design maintains the structures within required setbacks, thus allowing for full use of side yard areas for snow shed and drainage. Likewise, the site plan and final grading details generally demonstrate that proper (positive) grading will be directed away from the structure; that drainage is handled on the subject property.

Mass and Form

The following excerpts from the Design Guidelines should be considered by the Design Review Board when reviewing the proposed project:

Appendix B (II)(A)(2)(c) – Building Details

“Create interest in the primary wall plate with porches, balconies, recessed walls and decks (as well as overhangs, eaves, dormers, cantilevers, awnings and similar features).”

Staff Response:

Staff believes that the design and scale of the proposed structures “stepping” and creates visual interest, and is complimentary to adjacent structures and character on nearby parcels. Staff further suggests that the scale of the project is appropriate and will not overpower surrounding natural and built environments. Proposed roof forms and pitches, materials and textures are compatible and complimentary to the surrounding environments.

V. Summary of Process and Code Requirements for Conditional Use Permit:

This is a Conditional Use Permit (CUP) review by the Town of Minturn Town Council, acting as the Town of Minturn Zoning Board of Appeals – the body responsible for review of CUPs and for decisions of approval, approval with conditions, or denial of CUP requests in accordance with the standards, criteria and findings outlined in Section 16-21-620 – *Conditional Use*, Minturn Municipal Code. Below are definitions that staff believes are relevant:

Conditional use means a use listed in the Character Area use tables and permitted upon approval of the Town Council upon showing that such use in a specified location will comply with the conditions and standards for the zone and location proposed.

Conditional use permit means a use permit issued by the Town stating that the conditional use meets all the standards and conditions set forth in this Chapter.

Manufacturing, light means an establishment engaged in manufacturing, assembly, compounding, processing, packaging, treatment or distribution of projects, including primary product production from raw materials or production of services, but excluding establishments which produce or emit toxic or noxious gases, odors or fumes, excessive noise, vibration or electrical interference or similar substances or conditions onto adjacent or other properties; or dangerous to the comfort, peace, enjoyment, health and safety of the community.

Specifically, the Planning Commission's recommendation and any action of the Town of Minturn Town Council should be based on the following standards and findings:

(e) *Conditions and procedure of issuance.*

(1) *The Town Council may approve the application as submitted or may approve the application subject to such modifications or conditions as it deems necessary to accomplish the purpose of this Article, or the Town Council may deny the application. A conditional use permit may be revocable, may be granted for a limited time period or may be granted subject to such other conditions as the Town Council may prescribe. Conditions may include, but shall not be limited to, requiring special setbacks, open spaces, fences or walls, landscaping or screening and street dedication and improvements; regulation of vehicular access and parking, signs, illumination and hours and methods of operation; control of potential nuisance; prescription of standards for maintenance of buildings and grounds; and prescription of development schedules.*

(d) *Administrative procedure.*

(1) *Upon receipt of a completed and proper application, the Planning Director shall set a public hearing for the Planning Commission and give public notice as required by this Chapter.*

(2) *Criteria; findings. Before acting on a conditional use permit application, the Planning Commission and Town Council shall consider the following factors with respect to the proposed use:*

- a. The relationship and impact of the use on the community development objectives of the Town.*
- b. The effect of the use on distribution of population, transportation, utilities, schools, parks and recreational facilities and other public facilities and public facility needs.*
- c. The effect upon traffic, with particular reference to congestion, automotive and pedestrian safety, traffic flow and control, access, maneuverability and snow removal.*
- d. The effect upon the character of the area in which the proposed use is to be located, including the scale and bulk of the proposed use in relation to surrounding uses, the amount of noise, lighting and glare, dust and compatibility of the use with the Character Area it is in and surrounding areas.*
- e. Necessary findings. The Planning Commission and Town Council shall make the following findings before making a recommendation or decision that a conditional use permit be granted:*
 - 1. That the proposed location of the use is in accordance with the purposes of this Chapter, the Community Plan and the purposes of the zone in which the site is located.*
 - 2. That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.*
 - 3. That the proposed use will comply with each of the applicable provisions of this Chapter.”*

VI. Staff Findings and Analysis:

The following section provides staff responses to each of the applicable Conditional Use criteria.

- a. The relationship and impact of the use on the community development objectives of the Town.*

Staff Response:

Chapter 2: A Thriving 100 Block

*“Objective 2.1 Implement a framework for **redevelopment and growth** in the 100 Block that contributes to Minturn’s character and **economic development**.”*

*“Objective 2.6 **Invest in continuous placemaking improvements to support the 100 Block as a vibrant, central community gathering place**; improve connectivity to the riverfront area and nearby amenities.”*

Chapter 3: An Economically Vibrant Community: Commercial Development & Industry

*“Objective 3.3 **Pursue land use changes that support Minturn’s tax base and economic growth**; plan future development on important catalyst sites, including Dowd Junction.”*

*“Objective 3.6 **Ensure that the Town’s zoning and development code supports and encourages commercial development and redevelopment in key commercial districts while preserving historic character**.”*

- b. The effect of the use on distribution of population, transportation, utilities, schools, parks and recreational facilities and other public facilities and public facility needs.*

Staff Response:

The distillery likely will have material impact or effect on transportation within the area as people frequent the business, however the distribution of population, utilities, schools, parks and recreational facilities and other public facilities and/or needs should be minimally impacted.

- c. The effect upon traffic, with particular reference to congestion, automotive and pedestrian safety, traffic flow and control, access, maneuverability and snow removal.*

Staff Response:

Any use built on this lot is likely to have impact on local traffic, congestion, pedestrian safety, traffic flow and control, access, maneuverability and snow removal in the immediate vicinity of the subject property. These impacts would not be specifically because of the Light Manufacturing for the distillery.

- d. The effect upon the character of the area in which the proposed use is to be located, including the scale and bulk of the proposed use in relation to surrounding uses, the amount of noise, lighting and glare, dust and compatibility of the use with the Character Area it is in and surrounding areas.*

Staff Response:

Staff believes that this will not have a negative effect upon the character of the area. This zone district is designated to be primarily commercial, and as such supports the development of this lot. The scale of the building is actually smaller than the 100 Block Design Guidelines allow for and so should have less visual impact. There is likely to be noise and lighting that this building will be the source of, but it should comply with the Town’s regulations in regards to both.

- e. *Necessary findings. The Planning Commission and Town Council shall make the following findings before making a recommendation or decision that a conditional use permit be granted:*
1. *That the proposed location of the use is in accordance with the purposes of this Chapter, the Community Plan and the purposes of the zone in which the site is located.*

Staff Response:

Generally, the subject site is located within a historically commercial area. The Town's master plan and guiding policy statements for the Old Town Character Area 100 Block A Zone District anticipate a mix of commercial types:

"This district was updated concurrent to the Community Plan update and includes two subareas: 100 Block A (properties fronting onto Main Street) and 100 Block B (properties to the west of Main along Williams). The intent of this district is to incentivize sales-tax generating uses and the reuse of existing structures, while new construction is required to fit in with the rest of the 100 Block through new design standards and guidelines."

- 2023 Imagine Minturn Community Plan Chapter 1, pg. 21

It should be noted that the Community Plan does provide goals and strategies geared toward supporting commercial. As such, staff suggests that the use proposed is in accordance with this criteria.

A primary purpose of the Conditional Use Permit review is to ensure that permitted uses are compatible with their locations and surrounding land uses and will further the purposes of the Community Plan and Chapter 16.

2. *That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.*

Staff Response:

Generally, the location and use proposed, if properly conditioned, should not be detrimental to the public health, safety or welfare, nor should they be materially injurious to the properties or improvements in the vicinity if the site is maintained in accordance with the standards of the Minturn Municipal Code.

Within the variance hearing there was brought up by a member of the public concern for the possibility of "whisky fungus". The Applicant reached out to an expert on the matter, Dr. James Scott, and per the attached email the risk of this being an issue is minimal due to the small scope of the production as well as the dry climate that we live in.

3. *That the proposed use will comply with each of the applicable provisions of this Chapter.*

Staff Response:

Staff believes that this finding can be met.

VII. Issues and Areas of Non-Conformance:

Issues or Required Plan Revisions

There are no issues identified by staff.

VIII. Summary of January 8, 2025 Planning Commission Meeting:

The Planning Commission liked the design of the structure. The main topics of discussion were clear vision sight triangles on the corners of the building and ensuring that the loading dock remains a loading dock space. After looking at the Code and discussion during the hearing, it was determined that the sight triangles provided were adequate. Concerning the loading dock, the Planning Commission implemented a condition that encourages the Applicant to install signage not allowing parking in the loading dock and directing people to park in the Municipal lot.

Two members of the public spoke at the hearing, one supportive of the project and one against. Mr. Flaherty who spoke out against the project believes that the variance should be revoked as they are not providing parking, and that any risk of “whisky fungus” is not acceptable. Staff explained after public comment that due to this being a solely commercial building that no parking is required to be provided. The Applicant explained that there should not be any problem from the fungus due to our climate and the conditions needed for that becoming an issue is based on the amount of barrels stored on the lot which needs to be far in excess of what they are capable of storing.

Any written public comment received is attached to this staff report.

IX. Planning Commission Recommendation and Suggested Conditions:

Staff and the Planning Commission suggest that the Final Plans for 161 Main Street and 161 Nelson Avenue **comply** with applicable provisions of Chapter 16 and the Town of Minturn Design Standards (Appendix ‘B’) of the Minturn Town Code.

In the event the Town Council approves of the Conditional Use Permit, the following conditions of approval are suggested by the Planning Commission.

1. The Amended Final Plat combining the two lots shall be completed prior to building permit issuance.
2. Signage is encouraged to not allow parking in the loading dock and directing people to park in the Municipal lot.
3. That the testimony given in regards to the loading dock remaining a loading dock is binding.