

**New Castle, Colorado
Planning and Zoning Commission
Wednesday, January 10, 2024, 7:00 PM**

Call to Order

Commission Chair Apostolik called the meeting to order at 7:01 p.m.

Roll Call

Present	Chair Apostolik
	Commissioner Cotey
	Commissioner Martinez
	Commissioner Carey
	Commission Alternate Rittner
	Commissioner Westerlind
	Commissioner Alternate Parks (coin toss)
	Commissioner Sass
Absent	Commissioner McDonald

Also present at the meeting was Town Administrator David Reynolds, Town Planner Paul Smith, Assistant Town Attorney Haley Carmer, Deputy Town Clerk Remi Bordelon, and members of the public.

Meeting Notice

Deputy Town Clerk Bordelon verified that her office gave notice of the meeting in accordance with Resolution TC 2024-1.

Conflicts of Interest

There were no conflicts of interest.

Citizen Comments on Items NOT on the Agenda

There were no citizen comments.

Public Hearing

Consider Resolution PZ 2024-1, A Resolution of the New Castle Planning and Zoning Commission Recommending the Amendment of Sections 17.04.050 and 17.36.040 of the Town Municipal Code to add Microbrewery as a Permitted Use in the C-1 Zone District

Chair Apostolik opened the public hearing at 7:03 p.m.

Town Administrator Dave Reynolds discussed the intent of the resolution and clarified the difference between permitted use by right and a Conditional Use Permit (C.U.P.). He said staff recommended, for Planning & Zoning's consideration, a code change to allow microbreweries to be a permitted use by right as that business type was not mentioned in either category – permitted use or conditional use. He shared the Town code for the C-1 Commercial District. He said Town Council, acting as the Board of Zoning Adjustments, was interested in zoning microbreweries in the C-1 District but

wanted the Planning & Zoning Commission to review and consider microbreweries to be a permitted use. Administrator Reynolds read the proposed definition of 'microbrewery' as:

Microbrewery means a facility or establishment that manufactures no more than five thousand (5,000) barrels per year of fermented malt beverages or malt liquors on site. For purposes of this definition, fermented malt beverage and malt liquors have the meaning assigned to them in the Colorado Liquor Code, as amended from time to time, and a barrel shall equal 31 US gallons.

Administrator Reynolds identified the 5,000 barrels (155,000 gallons) as an arbitrary number and said other municipalities listed 15,000 to 20,000 barrels. He said staff reduced that number for New Castle, realizing both the commission and Council would not appreciate a large corporate manufacturer on Main Street. He clarified that the production number of 5,000 barrels was completely negotiable for the commission's consideration. He said the intent was to be friendly to businesses with the potential of not having a microbrewery go through the C.U.P. process but simultaneously mindful of the need for Main Street. He clarified that the cap on production in barrels would allow the commission to review any business wanting to produce more than the allotted amount with the C.U.P. process to make an appropriate determination.

Administrator Reynolds introduced Joe Hemelt as the new owner of the Texaco Building (645 W Main Street) who desired to open a microbrewery at that location. He said Mr. Hemelt did not intend to produce even half the amount of the capped limit of 5,000 barrels with his proposed business plan.

Joe Hemelt, a New Castle resident, shared his desire and intent to open a microbrewery on Main Street. He introduced his business partner Brad Williams. Mr. Hemelt described his plan for manufacturing and shared some of his design elements for his planned infrastructure. Chair Apostolik expressed serious concerns regarding the wastewater discharge in relation to a brewery. Mr. Hemelt clarified that his brewing process would be proprietary as a 'smart brew system' that separated the 'hot' and 'cold' brewing process, making for a cleaner operation. He said the hot brewing process that involved speck grains and wastewater would be manufactured off location and shipped in. Mr. Hemelt explained that they would only be brewing the second half of the beer process, the cold brew, on location eliminating the majority of the yeast process. He said their design incorporated a self-cleaning system that involved little wastewater.

Chair Apostolik asked if Mr. Hemelt planned to have a primary containment system for hauling the remaining solids produced. Mr. Hemelt said the brewing process included a proprietary self-cleaning system that would rinse out the solid remains. He said the current piping under the Texaco was large enough for the planned microbrewery. Chair Apostolik expressed concern regarding Public Works ability to handle the discharge to the wastewater treatment plant and water availability for brewery production. He said a 5,000-barrel production would equate to 7.5 million

97 gallons of water; however, he acknowledged that Mr. Hemelt's smart system
98 production would be less than half of that since he would not be managing the hot
99 brew process in New Castle. Chair Apostolik explained that from beginning of
100 production to end, including the cleaning system, an estimated 1,500 gallons of
101 water was required for every barrel of brew produced, or 5 to 6 gallons of water for
102 every gallon of produced beer. Mr. Hemelt said his maximum capacity production
103 would be below 1,500 barrels a year and would use significantly less water than
104 Chair Apostolik's estimation. Business Partner Brad Williams added that the initial
105 smart system they would start with, and planned to install, had a maximum
106 capacity of 960 barrels per year. He said the initial projections of manufacturing
107 reported half that amount at beginning production. Mr. Williams confirmed that
108 5,000 barrels per year was a big operation and not a number he or Mr. Hemelt was
109 looking to produce. He said their microbrewery intended to serve the local
110 community and planned to produce only 10% of the arbitrary cap of 5,000 barrels
111 a year.

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113 Commissioner Cotey said that the consideration of the code change not only involved
114 upcoming prospective businesses but that of all future microbreweries to establish
115 themselves in New Castle.

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117 Chair Apostolik expanded on the wastewater discharge concerns he had and said for an
118 average brewery production, even with the separation of solids, there would still be
119 solids present in the wastewater. He said that can cause pH issues in the discharge
120 and the alkaline can rot the pipes that lead to the sewer system, and he added that
121 surface solids can change the filtration of the wastewater treatment system. He
122 commented that EPA regulations would be a concern as brewery byproducts would not
123 be considered a domestic sanitary waste product. Chair Apostolik explained he opened
124 a brewpub in Eagle County and gained a lot of experience from it. He noted that the
125 commission needed to ensure the town was prepared for breweries and not just Mr.
126 Hemelt's business proposal and reiterated Commissioner Cotey's previous statement
127 regarding changing the town code.

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129 Chair Apostolik stated his intention was protecting the town's best interest and ensuring
130 preparedness for such businesses. He stated that breweries are one of the highest
131 demanding water uses and asked what the town's water capacity was measured to be.
132 Administrator Reynolds explained that the Town of New Castle had water rights for the
133 entire buildout of the town in addition to reserve water rights of the Colorado River. He
134 said adding a couple EQRs (equivalent residential unit of water) for a business is
135 currently not an issue, however he stated in the case of a drought, that situation could
136 change. Chair Apostolik stressed his concern of water demand from a common brewery
137 that could potentially establish themselves in town, not including the wastewater
138 discharge issue. Commissioner Cotey agreed with Chair Apostolik and shared the
139 hypothetical example of the Mattivi Building (298 W Main St.) becoming a large
140 microbrewery location with a high water use demand. Administrator Reynolds asked
141 Assistant Attorney Carmer how the amount of EQRs could be determined/distributed in
142 the case of a business operating at a specific location. Administrator Reynolds said
143 there was potential to create a limiting factor for a larger brewery with limiting the
144 availability in purchasing additional EQRs. Assistant Attorney Carmer said the expansion

of a use would have to match the EQRs needed, and the selling/availability of such EQR demand would be related to the physical capacity to serve that water need. She said this could be a potential performance standard established for microbreweries, confirming the town's capacity to serve that need.

Commissioner Carey summarized the primary concerns expressed in the public hearing as:

- Water usage and availability
- Impacts to wastewater treatment (reviewed by Public Works staff)
- Complying with regulations (reviewed by State before brew license issued)

Commissioner Carey said the only highlighted concern without a review team was the concern of water usage and availability. She asked if the arbitrary number of 5,000 barrels could be revisited and proposed to reduce the barrel production cap even further to prevent larger brewery operations in New Castle.

Commissioner Westerlind asked what the review process was for a general permitted use. Administrator Reynolds said the review covers the health department guidelines and if needed, a building inspection. He explained the permitted use review would not come before the Planning and Zoning Commission, however input from professional experts such as the Building Department, Public Works, and the Health Department would remain. Commissioner Westerlind asked the commission if they wanted to have all microbreweries be solely reviewed by staff and not reviewed by Planning & Zoning. Assistant Attorney Carmer noted that performance standards specific to microbreweries could be included in the code for permitted use, that would otherwise be found in a conditional use permit. Commissioner Cotey clarified that instead of a condition use permit for microbreweries, the commission could consider code changes that required specific criteria for microbreweries that would not undergo a C.U.P. process and could be completed administratively.

Alternate Commissioner Bronwyn asked if the consideration was solely for microbreweries on Main Street, if a C.U.P. process was necessary. She asked how many microbreweries would be allowed on Main Street. Commissioner Carey explained that the zoning proposed for microbreweries was categorized in the C-1 District, which included Main Street, but had the potential to expand with future annexations. She said if the consideration was to categorize microbreweries as a permitted use by right, it would mean there would be less subjectivity moving forward. Commissioner Carey reiterated her request to reduce the number of barrels produced.

Commissioner Cotey noted the depth of discussion around microbreweries and the production process and said it was important for the commission to consider where to categorize microbreweries: permitted use (community retail) or conditional use (more industrial). Commissioner Cotey suggested adding a forward-facing commercial component to the definition of a microbrewery in an effort to better serve the community and design of downtown. She noted her excitement for Mr. Hemelt's prospective business but stressed that the commission had to consider the bigger picture of all future microbreweries looking to establish in town. She said categorizing a microbrewery as a permitted use was beneficial from an economic development standpoint, however she stressed the importance of staff having the ability to address the concerns the commission outlined. Commissioner Westerlind suggested Public Works develop criteria standards for microbreweries that could be reviewed

administratively. Chair Apostolik stated the list of review items to serve as a checklist for a permitted use, to be reviewed administratively, would be extensive and difficult to build.

Chair Apostolik closed the public hearing at 7:47 p.m.

Commissioner Sass said she would support microbreweries as a permitted use if all the criteria the commission discussed was included in an administrative review. Commissioner Sass asked how the situation of a future drought would impact microbreweries who had been previously approved for extra EQRs that the town could no longer support. Assistant Attorney Carmer suggested continuing the consideration of Resolution PZ 2024-1, in order to gain quantitative data from Public Works for the commission to better understand the Town's water capacity, creating specific performance criteria around that water capacity, and formulating other topics for performance standards.

Chair Apostolik asked Mr. Hemelt what his projected timeframe was in opening a microbrewery. Mr. Hemelt said he hoped to open the microbrewery in June of 2024. Mr. Hemelt stressed how critical it was for his operation to be running in the coming summer season. Commissioner Sass asked if Mr. Hemelt should apply for a condition use permit, while the commission and staff work out the details of what a microbrewery review would look like administratively, in an effort to save Mr. Hemelt time with his application review. Assistant Attorney Carmer stated that microbreweries were currently not a listed use in any category, so a C.U.P. was an option for Mr. Hemelt. She clarified a C.U.P. was currently an option for anyone who wanted to open a microbrewery.

Chair Apostolik requested staff coordinate with Public Works regarding the discussion and concerns addressed by the commission and share that data at the next Planning & Zoning Commission meeting. Commissioner Cotey requested the definition of a microbrewery be updated as well.

MOTION: Chair Apostolik made a motion to continue to January 24, 2024 Resolution PZ 2024-1, A Resolution of the New Castle Planning and Zoning Commission Recommending the Amendment of Sections 17.04.050 and 17.36.040 of the Town Municipal Code to add Microbrewery as a Permitted Use in the C-1 Zone District. Commissioner Cotey seconded the motion, and it passed unanimously.

Staff Reports

Planner Smith reported an upcoming Castle Valley multifamily sketch plan rereview for R2 Group. He said the continuation of the microbreweries and the sketch plan would be on the same agenda. Commissioner Carey requested that the continuation be listed first in the items for consideration. He shared there was a second sketch plan involving TC Fuels for the commission to review, tentatively on February 14th. Commissioner Martinez asked for the status of Coal Seam, LLC who planned to build a hotel with retail and a brewpub south of the Colorado River, next to River Park Condos. Planner Smith confirmed Coal Seam, LLC was still finalizing their design as the commission

approved a combined land use application. He said they conducted a successful community open house and reached out to the River Park Condo residents.

Commission Comments and Reports

There were no commission comments.

Review Minutes from Previous Meeting

MOTION: Commissioner Cotey made a motion to approve the November 29, 2023 meeting minutes. Commissioner Westerlind seconded the motion and it passed unanimously.

MOTION: Chair Apostolik made a motion to adjourn the meeting. Commissioner Carey seconded the motion and it passed unanimously.

The meeting adjourned at 8:09 p.m.

Respectfully Submitted,

Chuck Apostolik, Chair

Remi Bordelon, Deputy Town Clerk