



**Town of New Castle**  
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**Building & Planning  
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**Planning Commission – Public Hearing  
Wednesday, April 10th, 2024  
Resolution PZ 2024-2  
Staff Report**

<b>Name of Applicant</b>	Colorado Drifters, LLC
<b>Mailing Address</b>	600 Ginseng Rd, New Castle, CO 81647
<b>Property Address</b>	589 W Main St, New Castle, CO 81647
<b>Name of Property Owner</b>	Family Matters, LLC
<b>Existing Zoning</b>	C-1 Commercial
<b>Surrounding Zoning</b>	Commercial (C-1), Residential (R-1), Performance (P)
<b>Surrounding Land Uses</b>	Public parking, Residential, Hotel, Mercantile, Public ROW - Railroad, and Public Works Facility
<b>Most Recent Uses of Property</b>	U-Haul Business - B; Storage – S-1; Auto Repair – F-1; Currently being remodeled as microbrewery - A-2;
<b>Proposed Use of Property</b>	Two (2) mobile food vendors on property, Thursday – Sunday weekly
<b>Property Size</b>	0.229 acres

**I. Background:**

The Applicant proposes the use of mobile food vendors for the property located at 589 W Main St. in downtown New Castle. *“Mobile vending carts or stands,”* are listed as conditional uses in the Commercial C-1 district (MC Section 17.36.050). There are currently no conditional use permits for mobile food vendors in New Castle, except temporary permits issued during organized events in public open space such as Burning Mountain Park or VIX Park.

The application submittal, **Exhibit A** provides context for the request: The Applicant is currently repurposing the existing “Texaco” structure for a brewery and tavern. Presently no bona fide restaurant is anticipated on the premises but, per state statute, food will be available for purchase

within the brewery itself or from the proposed food vendors. A small music venue is also being considered for the front exterior sitting area. **Exhibit A, Page 6**, shows the proposed food truck locations positioned directly west of the existing building.

The Applicant seeks the Planning Commission's endorsement to improve dining options and provide a rotating selection of food options for patrons of the brewery. If approved, Colorado Drifters anticipates having at least one food truck regularly available for breakfast and dinner during the week and implementing a lunch option on a later date. The food truck/trailer location will be prepped and ready by July 2024. No more than two (2) food trucks would be in operation on the premises at any one time.

As a conditional use application, the Planning Commission (P&Z) is required to hold a public hearing in accordance with the procedures set forth in Municipal Code Chapter 16.08. The hearing has been noticed, **Exhibits C & D**. Within 30 days of the special hearing, P&Z must make one of these three recommendations:

- 1) Approve the CUP unconditionally;
- 2) Approve the CUP with conditions;
- 3) Deny the CUP.

***Approval Criteria:*** An approved application shall:

- 1.) be eligible for conditional review under § 17.84.040;
- 2.) be generally compatible with adjacent land uses;
- 3.) meet all requirements of § 17.84.020 of the Code, is in compliance with Title 17 of the Code, and minimizes potential adverse impact of the conditional use on adjacent properties and traffic flow;
- 4.) be consistent with the comprehensive plan; and
- 5.) show that the Town has the capacity to serve the proposed use with fire and police protection and is not required to provide water or sewer service.

## **II. Application Requirements:**

The purpose of a conditional use permit is to determine if the nature of the proposed use is appropriate for the location and character of surrounding land uses and poses little negative impact to the health and wellbeing of New Castle residents.

### **1. Site Plan:**

#### ***a. Adjacent land uses and location of adjacent structures;***

Land uses surrounding the property vary. Single-family homes exist to the north across US 6 and immediately to the east. The Town's public parking lot ("Kamm Lot") is found west off of Kamm Ave. To the south, the property is separated from the railroad tracks by an alleyway. Elsewhere in the vicinity are a restaurant, a hotel, and the Town's sewer treatment facility.

**Staff Comment** – The C-1 zone allows for a diverse mix of businesses and services, including restaurants. Though food trucks operate similarly to restaurants, they are unique by virtue of their outdoor service component. Food trucks at the proposed location are generally consistent with the C-1 zoning but, like any establishment, may be prone to adverse effects on the immediate surroundings if not properly managed. Therefore, compliance with the attached performance standards (**Exhibit E**) will be enforced throughout the life of the CUP.

*b. Boundary and size of lot;*

589 W Main Street is 100ftx100ft (about twice the area of a basketball court). The Applicant plans for the mobile food vendors to be situated on the southwest corner of the property at a right angle (**Exhibit A, pg. 6**, see rectangles labeled “1” and “2”). The vendors have been purposely located off the main corner of Kamm Ave. & US 6 in order to preserve the line of sight for vehicle and pedestrian safety (See MC Section 17.72.110). Note also that the submitted site plan shows the food truck footprint only, and omits generators, signage, tables or other accessory items common with these establishments.

**Staff Comment** – Positioning the vendors on the southwest corner of the lot will help limit the impacts of light, sound, and smells on neighboring residential properties. The food trucks will also be set back from the existing building a minimum of 10ft for purposes of life safety. Staff further recommends, in lieu of fixing the location to the west side of the building, that a 20-25 ft wide parking envelope be considered on the south and west property boundaries, (**Exhibit B**). This alternative will provide flexibility of service for both larger events and/or patio dining in the rear of the property. The Applicant is still finalizing plans for the brewery remodel, including outdoor dining. It may be helpful for the Applicant to specify the remaining use of the outdoor space so that the Planning Commission may ascertain whether the lot size is adequate for the concurrent operation of the brewery and two mobile food trucks.

*c. Building location, height and setbacks;*

The setbacks for C-1 zone are zero feet in the front/sides and five (5) feet in the rear. Vendors will be parked along the side or rear property lines. Also, the Texaco building is approximately 18 ft tall whereas a typical food truck/trailer is about 10 ft tall. **Exhibit B** depicts the various distances between the existing building, lot lines, and the mobile food vendors.

**Staff Comment** – Mobile food vendors range in size. Staff recommends retaining the aesthetic of downtown by restricting the truck/trailer heights to no more than that of the existing building. If operations are kept to the perimeter of the property, Staff believes the trucks/trailers will act as an enclosure that enhances the dining appeal and life safety of the rear (south) space.

*d. Off-street parking and loading areas;*

Off-street parking is not a requirement of the C-1 zone district and is therefore not depicted on the site plan. Off-street parking is provided in the nearby Kamm lot (10 total spaces of which two are EV; one is veteran parking). On-street parking is limited to only those spaces on US 6. Public Works is agreeable to two, 30-minute loading spaces on the east side of Kamm Ave. south of the 30' vision triangle illustrated in **Exhibit B**. No loading areas are discussed in the application.

**Staff Comment** – Kamm Avenue is roughly 34ft wide from face of curb-to-face of curb. Assuming two 12 ft drive lanes, 10 ft may be available for vehicle parking along the street's east side. These few spaces may be advantageous for temporary loading and stocking of the trucks/trailers. Loading areas may also be available in the rear of the lot. Staff recommends that the Applicant specify the use of the south side of the lot (patio seating, food vendors, parking, temp loading, etc.) to aid the Planning Commission's assessment.

The trucks/trailers themselves may access the premises from either Kamm Ave. or the alleyway. In no instance shall vendors use the public rights-of-way for business operations unless approved as part of the CUP.

*e. Points of ingress and egress;*

The property will have an open site plan for dining. Patrons will generally access food vendors from the front (north) side of the premises with some emerging from the rear building exit. Adequate egress from the brewery building is anticipated during all hours.

**Staff Comment** – In terms of safety and aesthetics, Staff preferences the general southwest lot area for vendor operations. It is possible to stage on the north side of the property, however, this area was rendered less desirable to the Applicant. The mobile food vendors will be prohibited from parking in a manner which interferes with the exit pathway from the south exit of the existing building (**Exhibit B**).

*f. Service and refuse areas;*

The Applicant has not included location of trash receptacles on the site plan. All food preparation is expected to occur within the trucks/trailers or off-site in a commissary kitchen.

**Staff Comment** – Trash pick-up should take into consideration refuse volumes from both brewery and food trucks. Ideally the refuse containers will be located on the southeast corner of the lot (**Exhibit B**) to facilitate ease of access for trash collectors and

help with curb appeal. Grease or extraneous food waste produced by the mobile food vendors shall be disposed of off-site.

*g. Signs and exterior lighting;*

Section 17.40.130 requires that exterior lighting in the C-1 district encourage pedestrian activity and, at the same time, limit lighting trespass. The application does not provide lighting specifics, indicating only that signage and lighting will be mounted to the food trucks.

**Staff Comment** – Exterior lighting shall be downcast and fully shrouded per dark-sky design specifications. “New Castle will require lighting design that minimizes lighting trespass while meeting appropriate safety standards,” as well as “minimize after-hours business lighting,” (Goal EN-4, Comprehensive Plan pg. 66). Flood lights would typically not be permissible. In most cases the proprietor of the truck/trailer will be responsible for a sign permit.

*h. Fencing, landscaping and screening;*

Town code prohibits (Section 17.40.120) exposed mechanical and electrical equipment from undermining the historic character of the district. The submittal does not indicate locations of auxiliary equipment (e.g. generators, power cords, propane tanks), items often indispensable to the operation of a mobile food vendor. Also, food trucks commonly cordon off space around the vehicle with a combination of cones, ropes, flags, or fencing framing the dining location and buffering patrons from ambient street noise.

**Staff Comment** – Staff recommends that the Applicant provide means and methods for managing any auxiliary equipment or any other apparatus which may detract from the downtown character.

*i. Compliance with performance standards;*

Compliance with performance standards is required in the Municipal Code, Section 17.72.090. Performance standards protect the public against nuisances such as smoke, particulate matter, odors, glare, vibration, radiation, electrical disturbances, noise and water pollution. Per Town code (and state statute), the noise produced in a commercial zone shall not exceed the limit of 60 db(A) during 7am-7pm and 55 db(A) during 7pm to 7am, in commercial zones.

**Staff Comment** – The application is silent on potential noise from generators, fumes from cooking, and exhaust from various equipment. Noise and odors are potential nuisances relevant to this CUP. Staff recommends that the Applicant provide strategies

for managing potential generator noise and cooking odors as necessary. The Applicant has signed the Performance Standards (**Exhibit E**).

*j. Anticipated utility requirements;*

Utility requirements of food trucks are normally self-reliant with a generator or battery. In some cases electricity may need to be supplemented from the existing building. Propane is the traditional fuel for cooking.

**Staff Comment** – Other than what is discussed in sections (h.) and (i.), staff does not have further comment on this item.

**III. Staff Recommendations:**

Staff recommends approval of Resolution 2024-02 with the following conditions:

1. No more than two mobile food vendors will be permitted on the premises within the allowable parking location as depicted in green on **Exhibit B**. Other types of mobile vendors are not authorized to operate under this conditional use permit.
2. Provide a schedule for daily hours of operation.
3. The bathroom facilities of the Texaco building shall be made available to food truck/trailer employees during all hours of operation. Alternatively, 3<sup>rd</sup>-party bathrooms and hand washing stations shall be supplied per the requirements of Garfield County Public Health and Human Services.
4. Any auxiliary equipment, materials, or supplies necessary for the function of any food trucks/trailers shall be stored out of site or otherwise screened from public view by means of fencing, landscape ornamentation or other approved means of concealment.
5. An adequate trash receptacle shall be provided and maintained on the southeast corner of the premises.
6. Illustrate locations of on-site parking or designated loading areas as necessary. Two, 30-minute loading spaces (10' wide x 20' long) are permitted on the east side of Kamm Ave. south of the 30' vision triangle illustrated in Appendix B.
7. The use approved in the application shall not be conducted until the Town Planner has issued a conditional use certificate. That certificate shall be issued only after the Applicant has entered into an agreement with the Town specifying that all conditions imposed by the Town Planning Commission will be completed and that the use and improvements will be in accordance with the approved application site plan and development schedule. The conditional use certificate

must be issued within one year of the date of final approval by Town Council, or the application is deemed withdrawn by the Applicant and is of no further force and effect.

8. No approved conditional use may be altered or expanded in ground area unless the site plan is amended and approved in accordance with the procedures applicable to approval of a conditional use as set out in § 17.84.070 of the Code.
9. In the event the Town receives any complaints about the use of the site or observes or becomes aware of any violations of the conditional use approval, the Applicant and/or owner may be summoned before the Town Council in a public meeting to show cause why the permit should not be revoked, suspended, or additional conditions imposed. Such show-cause hearing shall be open to the public and the applicant or owner may present testimony or offer other evidence on its behalf.
10. Applicant shall comply with all applicable building and municipal code requirements, including all signage permitting, and county licensing requirements.
11. Any added exterior lighting will be dark sky compliant pursuant to the Comprehensive Plan Goal EN-4.
12. All representations of the Applicant in written and verbal presentations submitted to the Town or made at public hearings before the planning commission or Town Council shall be considered part of the application and binding on the Applicant.
13. The Applicant shall reimburse the Town for any and all expenses incurred by the Town regarding this approval, including without limitation all costs incurred by the Town's outside consultants such as legal and engineering costs.
14. Development of the Property shall be consistent with the site plan shown on **Exhibit B** as approved by the Town Council.

**IV. Application Exhibits:**

- A. Application Submittal
- B. Staff Recommended Site Plan
- C. Public Notice
- D. Notarized Affidavit of Public Notice
- E. Signed Performance Standards
- F. Property Owners Within 250 Feet