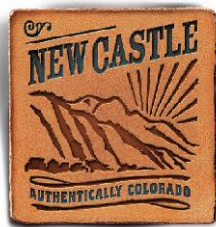


Posted: _____

Remove: _____



Town of New Castle
450 W. Main Street
PO Box 90
New Castle, CO 81647

Administration Department
Phone: (970) 984-2311
Fax: (970) 984-2716
www.newcastlecolorado.org

Agenda

New Castle Planning and Zoning Commission (Regular Meeting)

Wednesday, January 10, 2024, 7:00 PM

Full packets of P&Z meetings are available online by visiting
<https://www.newcastlecolorado.org/meetings>
or by scanning the **QR code** below.

Virtual Meetings are subject to internet and technical capabilities.

To join by computer, smart phone or tablet:

<https://us02web.zoom.us/j/7096588400>

Meeting ID: 709 658 8400

If you prefer to telephone in, please call: 1-346-248-7799

Be sure to set your phone to mute until called on.



Call to Order, Roll Call, Meeting Notice

Conflicts of Interest

Citizen Comments on Items NOT on Agenda

Public Hearing

- A. 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**

Comments/Reports

- Items for Next Planning and Zoning Agenda
- Commission Comments/Reports
- Staff Reports

Review Minutes of Previous Meetings

- B. Draft Minutes of November 29, 2023**

Adjournment



Town of New Castle
450 W. Main Street
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Memorandum

To: Planning & Zoning Commission
From: Dave Reynolds
Re: Agenda Item: Consider Resolution PZ 2024-01
Date: 1/10/24

Purpose:

The purpose of this agenda item is to consider Resolution PZ 2024-1, a resolution recommending the addition of "Micro Brewery" as a Permitted Use in the C-1 Zoning District.

In a recent Town Council meeting the Council convened as the *Board of Zoning Adjustment* and had the opportunity to consider how a Micro Brewing Business may be viewed in relation to Permitted Uses, Conditional Uses, or Prohibited Uses within the C-1 Zoning District.

As the C-1 Zoning District already includes Retail Beverage Sales, Taverns, Restaurants, and Bars as *Permitted Uses*, the question was do Micro Breweries fit within one of these existing *Permitted Uses*? Or, as Micro Brewing is not specifically named as a *Permitted Use*, or a Prohibited Use do they belong in the Conditional Use Category?

With no real clarity given in the code, and with a discussion which concluded by saying that limited brewing operations could be a healthy thing for the Main Street environment, the Town Council acting as the Board of Zoning Adjustment directed staff to gain input from the Planning and Zoning Commission regarding whether Micro Breweries might be formally defined and added as a *Permitted Use* within the C-1 Zoning District.

Staff will work to explain and define Micro Breweries and the attached Resolution PZ 2024-1.

**TOWN OF NEW CASTLE, COLORADO
RESOLUTION NO. 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.**

WHEREAS, pursuant to Chapter 17.08 of the New Castle Municipal Code (“Code”), the Town of New Castle (“Town”) has established a Planning & Zoning Commission (“Commission”); and

WHEREAS, pursuant to Section 17.92.030(B) of the Code, the Commission must consider and provide a recommendation regarding amendments to Title 17 of the Code; and

WHEREAS, Chapter 17.36 of the Code establishes the use, dimensional, and other zoning regulations for the C-1 commercial zone district; and

WHEREAS, there is a growing interest to operate microbreweries in the Town; and

WHEREAS, microbreweries are not listed as permitted, conditional, or prohibited uses in Chapter 17.36; and

WHEREAS, based on the characteristics of the C-1 zone district, the nature of microbreweries, and how other Colorado municipalities define and regulate microbreweries, Town staff believes that microbreweries would be an appropriate permitted use in the C-1 zone district; and

WHEREAS, Town staff believes that allowing microbreweries in the Town will promote economic development; and

WHEREAS, in accordance with Section 17.92.030(B) of the Code, the Commission held a public hearing on January 10, 2024, to consider whether Section 17.36.040 of the Code should be amended to include microbreweries as a permitted use in the C-1 district; and

WHEREAS, based on the testimony and evidence presented at the hearing, the Commission now desires to recommend that the Town Council approve an amendment to Chapter 17.36 of the Code as set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE NEW CASTLE PLANNING AND ZONING COMMISSION AS FOLLOWS:

1. Recitals. The foregoing recitals are incorporated by reference herein as findings and determinations of the Commission.

2. Recommendation. The Commission recommends that “microbrewery” be added as a permitted use in the C-1 zone district and that the Code be amended as set forth in the following section to accomplish the same.

3. Code Amendment. The Commission recommends that Code Sections 17.04.050 and 17.36.040 be amended as set forth below, with added language in **bold** and underlined:

17.04.050 – Definitions

“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.

17.36.040 – Permitted Uses

...

C. Personal service establishment, including:

...

9a. Microbrewery

4. Effective Date. This Resolution shall be effective upon adoption.

THIS RESOLUTION PZ 2024-1 was adopted by the New Castle Planning and Zoning Commission by a vote of ___ to ___ this 10th day of January, 2024.

TOWN OF NEW CASTLE, COLORADO,
PLANNING & ZONING COMMISSION

By: _____
Chuck Apostolik, Chair

ATTEST:

Remi Bordelon, Deputy Town Clerk

**New Castle, Colorado
Planning and Zoning Commission
Wednesday, November 29, 2023, 7:00 PM**

Call to Order

Commission Vice Chair Cotey called the meeting to order at 7:02 p.m.

Roll Call

Present Chair Apostolik (in-person at 7:30 pm)
Commissioner Cotey
Commissioner Martinez
Commissioner Carey
Commission Alternate Rittner (recused)
Commissioner Westerlind
Commissioner McDonald
Commissioner Alternate Parks
Commissioner Sass

Absent None

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

Meeting Notice

Deputy Town Clerk Bordelon verified that her office gave notice of the meeting in accordance with Resolution TC 2023-1.

Conflicts of Interest

Commissioner Rittner announced her recusal of the public hearing for Resolution PZ2023-4 due to personal property proximity of the proposed conditional use permit.

Citizen Comments on Items NOT on the Agenda

There were no citizen comments.

Public Hearing

Consider Resolution PZ 2023-4, A Resolution of the New Castle Planning and Zoning Commission Recommending Approval of a Conditional Use Permit for a Small Truck and Trailer Rental Facility on Property Located in the C-1 Zone District.

Vice Chair Cotey opened the public hearing at 7:04 p.m.

Town Administrator David Reynolds identified the purpose of the conditional use permit as a consideration of a small U-Haul truck and trailer rental, operating from a town owned building (known as the old ambulance barn) on Main Street. He identified Jim Shrull as the applicant who owned the U-Haul business located at the Texico building, East of the proposed lot. He credited Mr. Shrull for building the town-owned building,

located at 667 W Main St. He shared that Mr. Schrull had a conditional use permit for operating a U-Haul business out of the Texico building for the past 20 years. Administrator Reynolds explained the town owned building neighboring Texico was previously rented by a small furniture business who decided to adjust their lease to month-to-month in May of 2023 and had since moved out. He said that vacancy allowed for the consideration of other options.

Town Planner Paul Smith reminded the commission that they were to consider making a recommendation, conditionally or unconditionally, for the conditional use permit - or recommending a denial. Assistant Planner Lauren Prentice shared images of the site plan with the commission while Planner Smith summarized the intended use of lot 667 W Main Street (Exhibit A). He said the parking lot was located to the east of the building/warehouse, utilizing forty additional feet of space from the Kamm Lot for parking. He shared that the office space would be located within the warehouse (Exhibit B). Planner Smith outlined the municipal code criteria to weigh the application against such as: adjacent land use, boundary and lot size, building location, setbacks, off-street parking and loading areas, signs, exterior lighting, ingress and egress, service areas, fencing, landscaping, screening, compliance with performance standards, and utility requirements. He said Mr. Shrull had signed the performance standard requirements, committing to them. Planner Smith stated that the applicant requested a shed in the rear setback which could be considered an exception by variance. Planner Smith said there were no off-street parking requirements for commercial use, however he said staff wanted to see one off-street van ADA compliance space. Planner Smith added that loading and unloading of business vehicles would be designated to the 667 W Main St. parking lot plus the additional forty-foot boundary of the Kamm Lot. He noted that staff recommended egress through the Kamm Lot, allowing vehicles to exit through the Kamm Lot. He added that staff recommended a twenty-foot opening in the fence separating the Kamm Lot from the designated U-Haul parking lot to allow for egress. He added that Mr. Shrull was willing to install a split rail fence. Planner Smith noted that exterior lighting had to be night sky compliant. He concluded with staff recommendations outlined in the staff report (Exhibit C).

Administrator Reynolds reviewed the historic gas station aesthetic design (Exhibit D) and shared that Council was apprehensive of the lawn tractor and the mining cart display. He clarified that Council may consider not including those two items in the lease. Mr. Shrull confirmed Council's concern of the tractor. He shared that the tractor had been in his family his entire life and expressed his desire to have the tractor on the leased property.

The commission directed questions to Mr. Shrull. Commissioner Martinez expressed concerns about regulating hours of operation for a privately owned business. Mr. Shrull clarified that 9am-4pm, Monday through Friday, would be his standard hours of operation with flexibility for individual cases. Commissioner Cotey asked if there were lease terms to which Administrator Reynolds confirmed, a two-year lease. Commissioner Westerlind asked if extra lighting would impact residents across the street. Administrator Reynolds confirmed lighting had to meet night sky compliance. Commissioner Carey requested that the night sky compliance requirement be added to the recommendations list. Commissioner Westerlind inquired if a screened fence would

99 be beneficial instead of a split rail fence. Administrator Reynolds said the
100 recommendation was for a split rail fence and added that a U-Haul truck would not be
101 hidden by a screened fence. Commissioner Carey asked what the parking limits were
102 for off-street parking. Administrator Reynolds clarified street parking was limited to 72
103 hours per Town code.

104
105 Commissioner Cotey asked what the maximum business vehicle count Mr. Shrull could
106 accommodate regarding parking. Mr. Shrull said he estimated 15 vehicles was the
107 maximum for the parking space with a short turnaround for rental use due to demand.
108 Commissioner Carey asked how overflow of vehicles would be handled. Mr. Shrull said
109 he would have the U-Haul company collect any overflow, but that was rare as the
110 vehicles were consistently in use and rotated. Planner Smith asked the commission if
111 they intended to recommend to Council a cap limit on vehicles to prevent overflow, or
112 alternatively moving the overflow within the same day. Mr. Shrull said a same day
113 overflow move was difficult to achieve. He clarified that he had the ability to predict
114 overflow based on his business reservation schedule, which made it easier to manage.
115 Administrator Reynolds clarified that U-Haul vehicles were restricted from parking on
116 the street or the Kamm Lot as well as not blocking the egress. Commissioner Carey
117 expressed concern of the egress being used as an unauthorized road for a quick
118 turning lane. Assistant Town Attorney Haley Carmer recommended having staff and
119 the applicant determine a feasible number of vehicles for the designated parking area
120 that would then be presented to Council. Planner Smith asked how to train the public
121 in their parking habits in the Kamm Lot regarding the egress and mobility options of
122 the U-Haul trucks and trailers. Mr. Shrull agreed that signs would be helpful. He shared
123 that he requires his clients to call him prior to arriving for pick-up or drop-off of
124 rentals. Commissioner Carey asked how often Mr. Shrull had evening drop-offs.
125 Commissioner Sass explained that the business had been operating for years. She
126 stated that if late night drop-offs were not an issue currently then having the location
127 change should not cause an issue of late drop-offs. Assistant Attorney Carmer clarified
128 that currently the written conditions stated the hours of operation were from 9am to
129 4pm, Monday through Friday, and did not include vehicle drop-offs by customers. She
130 confirmed the hours of operation would not limit customers from dropping off vehicles.
131 She said if the commission wished to adjust that, they would have that opportunity
132 during deliberations.

133
134 The commission moved to Public Comment.

135
136 Bronwyn Rittner, a New Castle resident, said she wanted to acknowledge the
137 thoroughness of the presentation which made her feel very comfortable as a
138 neighboring property. She asked what the proposed personal stored equipment was
139 and where it was planned to be stored. Mr. Shrull clarified that a couple of his personal
140 vehicles and two trailers were intended to be stored on site. He said other personal
141 items would be stored indoors. Ms. Rittner referred to the 2001 signed lease by Mr.
142 Shrull and asked if the screened fence outlined in that lease was ever installed. Mr.
143 Shrull said he did not remember a fence. Ms. Rittner asked if Mr. Shrull had removed
144 abandoned vehicles and improved the appearance of the property of Texico as stated
145 in the 2001 lease. Mr. Shrull confirmed he had removed many abandoned vehicles
146 that previous vehicle owners would disregard due to the expense of the auto repairs.
147 He clarified that he had no desire to return to the automotive business. Ms. Rittner

expressed concern on how street parking and the Kamm Lot parking would be enforced equally for all who utilize those parking spaces.

Linda McFarland, a New Castle resident, shared her experience of public input via social media and said it was good to hear the details of the project by attending the public hearing meeting and the care of the commission. She asked for more communication on projects for consideration, such as in the town newsletter.

Joe Hemelt, a New Castle resident, said they owned and operated a local business, Drifters. He said he and his wife planned to buy Mr. Shrull's Texico property. Mr. Hemelt expressed strong support for Mr. Shrull's business and commitment to the community. He said they planned to transform the Texico building to their current business with a couple modifications. He said he would install a fence but keep the Texico aesthetics.

Chair Apostolik closed the public hearing at 8:19 p.m.

Commissioner Cotey stated that consideration of the conditional use permit included use of a New Castle owned building and government property. She said it would be valuable to explore enforcement and requirements with respect to it being government owned. Chair Apostolik added the benefit of including a lease agreement review as added enforcement. The commission discussed with staff their concerns of general enforcement for parking and use in that area. Assistant Attorney Carmer clarified that parking violations could be cause for a permit revocation. She added that was an extra incentive to the applicant to comply with the lease agreement. She explained that code enforcement would be handled by staff. Assistant Attorney Carmer clarified that if there were complaints of violations, Council could conduct a show cause hearing. Commissioner Carey expressed concern of the timeline regarding the closing, lease and condition date set to clean and remove personal property from the Texico property by March 31, 2024. She asked if the clean-up deadline for Texico could be moved closer to the closing and lease timeline. Assistant Attorney Carmer explained that the approval of the conditional use permit would act as leverage and incentive for meeting the clean-up deadline by the applicant.

Commissioner Cotey asked how the commission would add to the resolution conditions regarding setting a limit to a specific amount of U-Haul vehicles on site at one time. Assistant Attorney Carmer advised that the commission could include wording that stated *prior to presentation to council, applicant shall propose a maximum number of U-Haul vehicles to be located on the property at any one time*. She said the quantified vehicle limit would then be commented and reviewed by staff. Commissioner Cotey asked if a review period could be added to assess if the maximum number of U-Haul vehicles was successful or needed adjustment. Assistant Attorney Carmer confirmed a review period could be added as a condition. Chair Apostolik clarified that reviews were conducted by staff, not the commission. Assistant Attorney Carmer asked if the commission conceded to add a condition of a review period and what that timeline would be. Commissioner Parks suggested having Mr. Shrull conduct a test of the parking lot and take pictures for a better visual with appropriately scaled vehicle sizes.

Commissioner Cotey referred to the Downtown Street Scape Design Plan and asked if

the U-Haul trucks and trailers could be parked against the south side of the lot instead of the forty-foot parking boundary to reduce the visual impacts of trucks parked next to the sidewalk on Main Street. Mr. Shrull said he did not have a problem with parking along the back alley aside from the difficulty of blocking off that space from the public for designated U-Haul trucks and trailers. Administrator Reynolds said it was worthwhile exploring. The commission discussed the possibility of changing the redline boundary, as depicted in Exhibit A, of the U-Haul parking area to a horizontal design that spanned across the back alley from the warehouse into the Kamm Lot. Mr. Shrull expressed concern of his vehicle mobility if the public were to park in front of the U-Haul vehicles. The commission agreed to recommend that Mr. Shrull explore south parking along the back alley fence as a new design for his U-Haul business. Commissioner Carey asked Assistant Attorney Carmer if the lease could be adjusted, and she confirmed that adjustments could be made to the lease since it was unsigned. She clarified that a condition would be presented to Council stating that in the case of a new parking design, the lease could be amended. Commissioner Cotey requested a commitment from the Town to properly stripe parking lanes for easy visibility of appropriate parking spaces. Administrator Reynolds agreed. He said the split rail fence on the East end over to the warehouse measured 113 feet, and with a typical parking space measuring 9 feet, that would accommodate 12 parking spaces which was a little more space than the original design. He said the new horizontal design could be mimicked for the front row, abut to the sidewalk, for public parking availability. Commissioner Carey stressed the importance of ensuring that the parking area did not look like a road to avoid future cut-throughs from traffic. Administrator Reynolds asked Assistant Attorney Carmer where the commission could require a review process of the parking design to ensure it was successful. Assistant Attorney Carmer said it would be a condition that the commission would recommend to Council, as it concerned land use. The commission discussed specific criteria to include in a review process conducted by staff. Assistant Attorney Carmer delineated the differences between the roles of the lease and the conditional use permit.

Chair Apostolik summarized the changes to the resolution for conditions the commission would recommend to Council as:

- Trucks and trailers allowed on the property could be limited, however final counts and layouts would be reviewed by staff for Council's consideration.
- Adjustment to Item G, "office" hours of operation would be added clarification.
- An additional condition that staff review the conditional use permit after the first year of general compliance.

MOTION: Chair Apostolik made a motion to approve Resolution PZ2023-4, A Resolution of the New Castle Planning and Zoning Commission Recommending Approval of a Conditional Use Permit for a Small Truck and Trailer Rental Facility on Property Located in the C-1 Zone District with conditions. Commissioner Westerlind seconded the motion, and it passed on a roll call vote: Chair Apostolik: Yes; Commissioner Carey: Yes; Commissioner Sass: Yes; Commissioner Cotey: Yes; Commissioner McDonald: Yes; Commissioner Martinez: Yes; Commissioner Westerlind: Yes.

Staff Reports

Planner Smith reported the combined Coal Seam application will present their final application in the future. He reported the R2 Group community meeting was on December 7, 2023. He reported that applicant Crown Gate submitted an application for commercial development adjacent to R2 Group's proposal. Administrator Reynolds shared the possibility of an upcoming code change involving microbreweries being presented to the Planning and Zoning Commission.

Commissioner Cotey asked for more outreaching and communication to the public regarding future meetings including noticing from the developer. Administrator Reynolds clarified that the Town was restricted in how to post and notice to the public. He added that staff attended HOA meetings where upcoming development meeting information was shared in an effort to spread awareness. Assistant Attorney Carmer said the noticing requirements were set by the code. She added that if the commission was interested in changing posting and noticing requirements, a code amendment would be needed. Commissioner Cotey clarified that there was a difference between an open house and noticing for a development application. She expressed a need for better outreach for community developer open houses. Assistant Attorney Carmer clarified that requiring public outreach noticing from developers must be equal for all developers. The commission and staff discussed ideas for better outreach.

Commission Comments and Reports

Commissioner Parks reported updates from the Historic Preservation Commission. He shared that the commission was exploring a videography project involving long term residents of New Castle.

Review Minutes from Previous Meeting

MOTION: Commissioner Westerlind made a motion to approve the October 25, 2023 meeting minutes. Chair Apostolik seconded the motion and it passed unanimously.

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

The meeting adjourned at 9:30 p.m.

Respectfully Submitted,

Chuck Apostolik, Chair

Remi Bordelon, Deputy Town Clerk

295	<u>Exhibitions Index to the Planning & Zoning Minutes of November 29, 2023</u>
296	
297	Exhibit A, Depiction of Premises, Page 33 of the 11/29/2023 Packet
298	Exhibit B, Site Plan, Page 12 of the 11/29/2023 Packet
299	Exhibit C, Staff Recommendations, Pages 5-6 of the 11/29/2023 Packet
300	Exhibit D, Elevation Plan, Page 13 of the 11/29/2023 Packet
301	
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EXHIBIT A
Depiction of Premises



Landlord

Tenant

EXHIBIT B

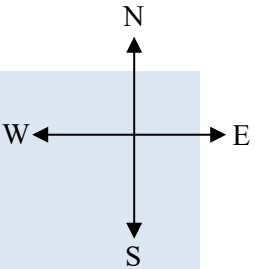
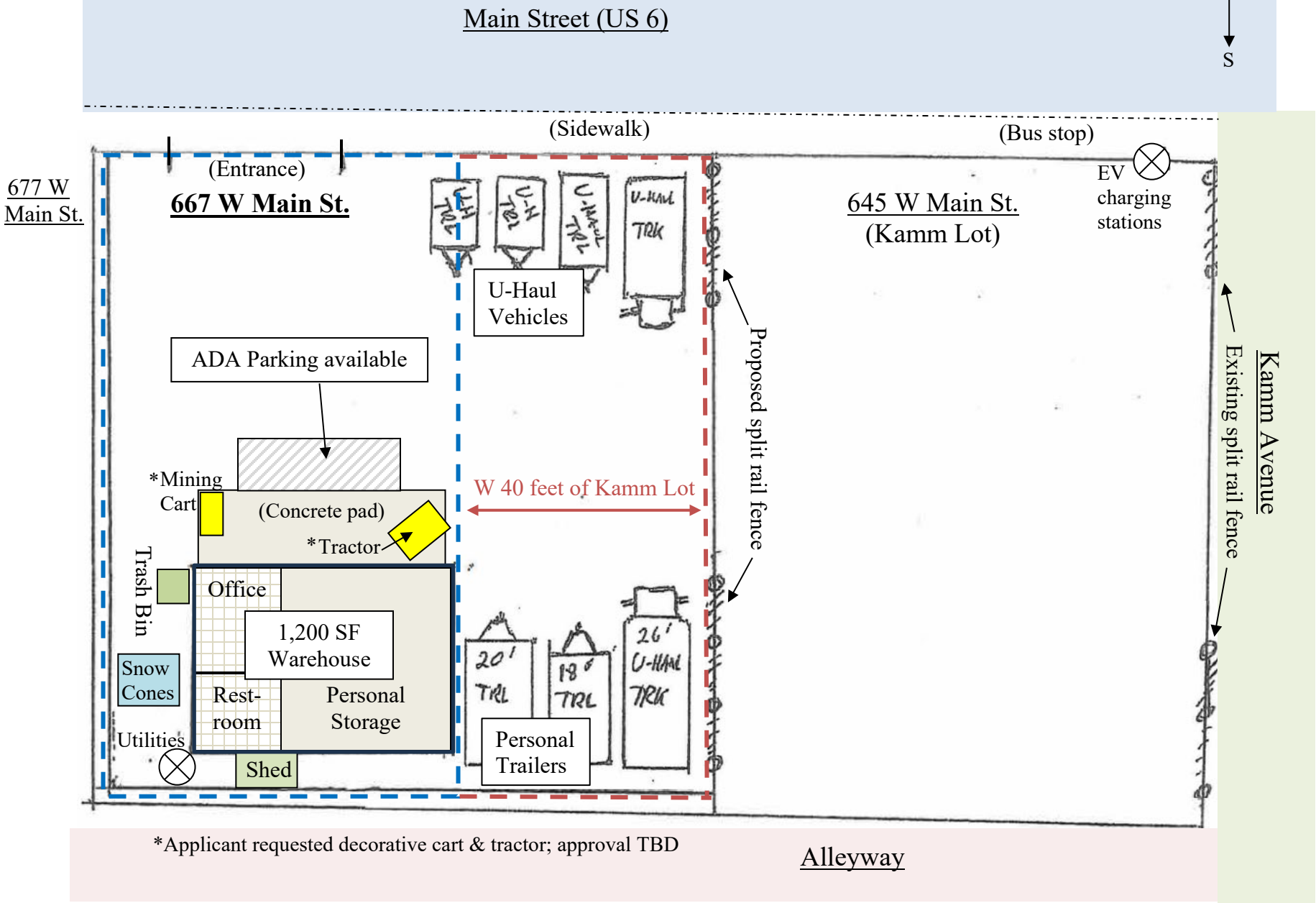


Exhibit F
Site Plan



III. Staff Recommendations:

Staff recommends approval of a Conditional Use Permit for a small truck and trailer rental facility as portrayed on the site plan (**Exhibit F**), with the following conditions:

1. The U-Haul trucks and trailers allowed on the Property are limited to the following:
 - a. One (1) permanent 26-foot box truck
 - b. One (1) 6' x 12' enclosed trailer
 - c. One (1) 5' x 8' enclosed trailer
 - d. One (1) 6' x 12' open bed trailer
 - e. Additional U-Haul trucks and trailers as may be dropped off by customers in the ordinary course of business
2. Applicant shall clean up and restore the exterior of Applicant's prior business location (589 W. Main Street) and remove all outdoor cars, equipment, and other personal property on or before March 31, 2024.
3. In the event the Town receives any complaints about the use of the site in violation of the conditional use approval or observes or becomes aware of any violations of the conditional use approval, the Applicant 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.
4. The following outdoor decoration & signage shall be permitted:
 - a. One (1) 1' x 1.5' U-Haul sign hanging on warehouse;
 - b. One (1) 3' x 2' portable advertisement sign to be located out of public ROW, parking spaces and ingress/egress areas.
 - c. "Standard Oil" decorative sign above overhead doors and/or an antique, decorative gas pump in front of the building
5. Provide ADA van parking and loading areas that shall be signed, available and accessible directly in front of the U-Haul office door & International Existing Building Code (IEBC) section 407.
6. All vehicles associated with the U-Haul Business are to load, park, stage, etc. only on the Premises.
 - a. The eastern portion of Kamm Lot and public on-street parking in the Town are not to be used for business or personal storage. The eastern portion of the Kamm Lot shall remain public parking free from U-Haul activity but may be used for access to the Premises provided that a 20-foot wide drive aisle is maintained.
7. Prohibit customer or personal loading, parking, storing, etc., in the rear of the warehouse, besides 8' x 10' shed and temporary vender trailer as shown on **Exhibit F**.

- a. Approved items shall be stored so as not to disrupt access to utilities, at SW corner of warehouse.
- 8. Limit U-Haul Business hours of operation from 9am to 4pm, Monday – Friday.
 - a. Hours of operations shall be clearly posted on the exterior of the building
 - b. Hours of operation do not include vehicle drop-off by clients and personal use of the Premises
- 9. Any Tenant improvements, such as installation of split rail fence at eastern property boundary or signage that is in addition to those outlined above in Condition 2, shall receive The Town’s approval and necessary permits before undertaking any work.
- 10. The Conditional Use Certificate, **Exhibit E**, shall be reassessed if any use or occupancy changes.
- 11. Applicant shall install split rail fence to match existing fence along Kamm Avenue, with 20 ft minimum opening.

IV. Application Exhibits:

- A. Conditional Use Permit Application
- B. Public Notice
- C. Notarized Affidavit of Notice
- D. Signed Performance Standards
- E. Conditional Use Certificate
- F. Site Plan
- G. Elevation Plan
- H. Adjacent Land Uses
- I. Existing Property Photos
- J. Certified Mail Recipients
- K. Special Review Resolution TC-2001-3
- L. Commercial Lease Draft

Exhibit G
Elevation Plan

