

1 **NEW CASTLE PLANNING & ZONING COMMISSION**
2 **REGULAR MEETING**
3 **April 13, 2011**

4 The Planning & Zoning Commission of the Town of New Castle, County of Garfield,
5 State of Colorado convened into regular session in the Town Hall on April 13, 2011
6 at 7:02pm.

7 Commission Chair Kevin O'Brien presided.

Commissioners Present:

Commissioner Holley
Commissioner Metzger
Commissioner Slack
Commissioner Newberry
Commissioner Apostolik
(arrived at 7:18pm)

Commissioners Absent:

Staff Present:

Tim Cain, Town Planner
Wendy Mead, Deputy Town
Clerk

8
9 **FINDING AS TO MEETING NOTICE**

10 Deputy Town Clerk Wendy Mead verified that her office gave notice of tonight's
11 meeting in accordance with Resolution TC-2011-1.

12
13 **CONFLICTS OF INTEREST**

14 No Commissioners reported conflicts of interest with respect to items on tonight's
15 agenda.

16
17 **PUBLIC HEARING**

18 **Conditional Use Permit**

19 Purpose: Conditional Use Permit for automotive repair and maintenance services
20 business.

21 Legal description: Section 31; Township 5; Range 90; Subdivision: Original
22 Townsite New Castle; Block 17; Lot 1-6

23 Common Address: 791 West Main Street, Unit A, New Castle, CO

24 Applicant: Michael Rieger, Rieger Performance Motors

25 Landowner: Jerry and Judith Senor

26 Resolution PZ 2011-3

27
28 Chair O'Brien opened the public hearing at 7:09pm.

29
30 Michael Rieger, the applicant, went through his history in New Castle. He went
31 through his application with the Commission answering various questions regarding
32 his business.

33
34 Commissioner Metzger questioned why the fee for the conditional use permit was
35 waived. Planner Cain replied that Town Administrator Barton has the authority from
36 Council to make that determination based on the potential for sales tax revenue.

37
38 Planner Cain presented his report, which is attached as exhibit "A" to these
39 minutes. He read the conditions of the resolution:

1 "A. The Applicant shall comply with all applicable building, residential,
2 electrical and municipal code requirements.

3
4 B. The storage of new or used auto parts, tires and related items shall be
5 confined indoors or in a self-contained storage unit located on the property
6 that does not interfere with vehicle circulation and complies with all building
7 and zoning code requirements.

8
9 C. Continuous automotive idling shall be confined indoors and have
10 adequate ventilation; idling of automobiles outside shall be restricted to three
11 (3) minutes.

12
13 D. All automotive work shall be performed indoors except for minor visual
14 and diagnostic analysis.

15
16 E. Hazardous chemicals such as motor oil, anti-freeze and brake fluid
17 shall be collected by a professional company that specializes in the disposal
18 of hazardous chemicals.

19
20 F. Outside storage of hazardous chemicals such as motor oil, anti-
21 freeze and brake fluid shall be prohibited unless stored in containers that are
22 approved of by the Environmental Protection Agency or any other State or
23 Federal Agency that has authority in such matters.

24
25 G. The interior of the building shall contain at least two fire
26 extinguishers that are designated for automobiles and chemicals commonly
27 used in automotive service stations.

28
29 H. Vehicles slated for sale shall not be stored on the property.

30
31 I. The applicant and property owner will work with the New Castle Public
32 Works Department to locate a stop sign on the northeast side of 8th street
33 adjacent to West Main St.

34
35 J. In the event the Town receives any complaints about the use of the
36 site or observes or becomes aware of any violations of the conditional use
37 approval, the Applicant and/or owner may be summoned before the Town
38 Council in a public meeting to show cause why the permit should not be
39 revoked, suspended, or additional conditions imposed. Such show-cause
40 hearing shall be open to the public and the Applicant or owner may present
41 testimony or offer other evidence on its behalf.

42
43 K. All representations of the Applicant made verbally or in written
44 submittals presented to the Town in conjunction with the application and
45 before the planning commission or Town Council shall be considered part of
46 the application and binding on the applicant."

1
2 Commissioner Holley questioned whether condition "D" dealing with where the
3 applicant may work on cars, was needed. It seemed too restrictive. Chair O'Brien
4 felt the condition should be left in to give the Town an option to enforce the
5 condition if the applicant is found to be doing repairs outside causing a nuisance.
6

7 Commissioner Holley questioned condition "I" dealing with the stop sign. She asked
8 if the New Castle Public Works Department would install the stop sign. Planner Cain
9 stated that yes the public works department would install the sign. She wondered if
10 the property owner needed to be involved. Planner Cain stated it would be helpful
11 for the applicant to be involved.
12

13 Chair O'Brien asked how long the conditional use permit is valid. Planner Cain
14 stated that it is indefinite but it should be reviewed in a year.
15

16 Commissioner Slack questioned condition "C" dealing with the idling of vehicles,
17 wondering if three minutes would be too restrictive. The Commission decided to
18 change the condition to read "shall be dependent upon the specific needs of the
19 repair but not exceeding 15 minutes."
20

21 On condition "D", the Commission decided to add "except minor visual and
22 diagnostic analysis for work that the shop bays does not allow adequate access."
23

24 Chair O'Brien closed the public hearing at 7:55pm.
25

26 **Motion- to approve resolution PZ-2011-3, a resolution of the New Castle**
27 **Planning and Zoning Commission recommending conditional approval of a**
28 **conditional use permit for Rieger Performance Motors with conditions "C"**
29 **and "D" as amended. (Apostolik/Holley) After voice vote-motion carried.**
30

31 **COMMENTS/REPORTS**

32 Items for next Planning and Zoning Agenda

33 No items were added to the April 27, 2011 Planning and Zoning agenda. Chair
34 O'Brien cancelled the April 27, 2011 meeting.
35

36 Planner Cain stated that there is a public hearing scheduled for May 25, 2011
37 regarding a PUD amendment for Whitehorse Village, Phase 2. There is also a public
38 hearing scheduled on June 8, 2011 for a PUD amendment for McDonalds, regarding
39 sign height.
40

41 Commission Comments/Reports

42 Chair O'Brien is resigning from the Planning Commission June 1, 2011, to attend
43 school. A new Chair will need to be appointed by the Commission.
44

45 **REVIEW MINUTES OF PREVIOUS MEETINGS**

46 **Motion** – approve February 23, 2011 meeting minutes as amended- (Apostolik/

1 Metzger). After voice vote, **motion carried.**

2
3 **Adjournment-9:00pm (Metzger)**



TOWN OF NEW CASTLE
PLANNING & ZONING COMMISSION

Kevin O'Brien
Kevin O'Brien, Commission Chair

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12 ATTEST:
Wendy A. Mead
13 Wendy A. Mead, Deputy Town Clerk



Exhibit A
to
4/13/11 Planning & Zoning Minutes

Town of New Castle **Planning & Zoning Department**
450 W. Main Street **Phone:** (970) 984-2311
PO Box 90 **Fax:** (970) 984-2716
New Castle, CO 81647 www.newcastlecolorado.org

Staff Report
Rieger Performance Motors Conditional Use Permit
New Castle Planning and Zoning Commission – Hearing – April 13, 2011

Report Date: 3/28/11

Project Information

Name of Applicant: Rieger Performance Motors (Michael Rieger)

Applicant's Address/Phone: 732 West Main St., POB 412, New Castle, CO 81647.
Telephone – 970.230.5377, E-mail: riegerize@gmail.com

Application preparation: Cyndi Peters (not applicant's representative)

Property Address: 791 W. Main St., Unit A, New Castle, CO 81647

Property Owner: Jerry & Judith Senor

Owner Address/Phone 42107 Highway 6 & 24, POB 397, New Castle, CO 81647.
Telephone: 970.984.2648

Proposed Use: Automotive repair and maintenance service; accessory uses; sales of auto, boat and trailer parts

Municipal Code Reference: Chapter 17.84 – Conditional Uses & Chapter 17.36 -
Conditional Uses in the C-1 zone district – 17.36.050 (C) (2)
Automobile service station with or without minor repairs

Size of Site: Block 17, Lots 1-6 = 10,000 Sq. Ft., Block 14, Lot 16 = 2,500
Sq. Ft. (portion of lots 5 & 6)

Street Frontage: 8th Street (platted – see below) and West Main St. (6 & 24)

Existing Zoning: Commercial - 1

Surrounding Zoning: North – Commercial Transitional, South – None, East –
Commercial-1, West – Performance

Parking Requirements: None

Hours of operation: 8:00 A.M. to 5:00 P.M. (days not listed)

I Description of Application:

This application is a request for a conditional use permit for the following uses as listed in the application narrative:

1. Automotive repair and maintenance services
2. Sale of auto parts
3. Sale of boat and trailer parts
4. Sale of batteries
5. Sale of after-market parts

The applicant is seeking approval of a conditional use permit as is provided for under the C-1 zone district. Utilities are in place and currently serve the property.

II Development Application Contents:

1. Applicant cover letter
2. Site plan
3. Authorization letter from property owner
4. List of property owners within 250 feet
5. Town of New Castle business license application
6. Lawful Presence Affidavit
7. Registered trade name
8. Sales tax license
9. Documents from GARCO Assessor's office (sketches)
10. Certificate of General Liability Insurance
11. Emails regarding C-1 zoning and parking

III Application Issues/Concerns:

Site Plan Requirements:

- (1) Adjacent land uses and location of adjacent structures

Staff Comment – The submitted site plan shows the adjacent uses. Unit A is located over 130 feet from Elk Creek on the west side; it is bounded by the Union Pacific Railroad Company on the south side; there are single family residences north of the building and across West Main St.; 8th street and a 25' X 100' lot (16) separates the use from the Burning Mountains Fire Protection station on the east side of the property. The building has three units; Rieger Performance Motors is unit A while units B and C are used for a plumber's and general contractor's office and storage space respectively.

- (2) Boundary and size of lot

Staff Comment – The submitted site plan describes the boundary and size of the lots. Only portions of lots 5 & 6 are included on the site plan due to unusual topography. The owner of the property also owns lot 16 described above and can be used for parking if necessary. Block 14 lot 16 and block 17 lots 1-6 are separated by 8th St. which is not maintained by the Town; it is not plowed for snow or does it have an asphalt surface. The Town Director of Public Works does not believe it is reasonable to vacate 8th St. because the Town needs free and unencumbered ability to access a sewer line.

- (3) Building location, height and setbacks

Staff Comment – The submitted site plan shows the building location, height and setbacks. Regarding building location, see (1) above. The height of the building does not exceed the maximum height allowed in the C-1 zone district which is 40 feet (Ordinance 2010-9). The side and front setbacks in the C-1 zone district are zero (0) feet and the rear is 5 feet. The building is compliant with setbacks.

(4) Off-street parking and loading areas

Staff Comment – The submitted site plan shows 8th St. right-of-way, but off street parking requirements in the C-1 zone has been temporarily eliminated (Ordinance 2010-4 – expires May, 2012 unless re-enacted). The loading area is shown on the site plan. A concern may be for large semi-trailers to have the ability to safely turn around on the property and thus eliminating semi-trailers from backing out on to West Main St.

(5) Points of ingress and egress

Staff Comment – Shown on the site plan. There is more than adequate linear distance for two large vehicles to enter and leave the property at the same time. There is a platted 15 wide alley on the south side of the property, but does not appear that it has been used or maintained by the Town or its citizens.

(6) Service and refuse areas

Staff Comment – Shown on the site plan. The applicant has stated in the narrative that (hazardous) waste will be collected inside the building and will be picked up by Safety-Kleen during business hours. Cardboard, plastic jugs and glasses will be collected for recycling. Other non-hazardous waste will be collected outside the building in a small green dumpster provided by Waste Management and will be collected on demand.

(7) Signs and exterior lighting

Staff Comment – Signs and exterior lighting are described on the site plan. A Sign Permit will be required after Conditional Use Permit approval. The applicant has stated in the narrative that existing exterior lighting is downcast and dark (sky) compliant. There may be motion detection lighting added on the south side of the building. Also, a neon "OPEN" sign may be placed inside the building and illuminated during regular business hours. This will not require a Sign Permit.

(8) Fencing, landscaping and screening

Staff Comment – Landscaping, fencing and screening are adequately described on the site plan. Screening of parked vehicles does not appear to be an issue.

(9) Compliance with performance standards

Staff Comment – The applicant has submitted a signed document stating he will comply with all performance standards.

(10) Location and size of easements, power poles, fire hydrants, gas lines, water and sewer lines; anticipated utility requirements

Staff Comment – Power poles, fire hydrants, gas line, water and sewer lines shown on the site plan; Potential utility requirements were not calculated and not included in the application.

The purpose of a Conditional Use Permit is to determine if the nature of the proposed use is appropriate to the location, character of the surrounding development, traffic capacities of adjacent streets and potential environmental effects among other factors that the Town may deem relevant to the type of land use. It is reasonable to ascertain the possible negative consequences that might result from the operation of an automotive service station. Ultimately it is the owner and proprietor of the property to ensure a safe and nearly hazard free interior and exterior environment. Regardless, it is the Town's responsibility to protect the health, safety and welfare of its residents whenever there are issues that may compromise the appropriate use of property.

Although the list below may not be all inclusive, the primary issues associated with an automotive service station are:

- (1) Outside storage of new and used auto parts, tires and related items

- (2) Compatibility with the neighborhood
- (3) Air and noise pollution (idling vehicles)
- (4) Disposal and storage of harmful chemicals such as engine oil, anti-freeze and brake fluid
- (5) Adequate provisions for indoor and outdoor fire suppression
- (6) Storage of vehicles on the property
- (7) Vehicles visible from West Main St. with "For Sale" signs on them
- (8) Expansion of the business to include unrelated non-permitted or conditional uses such as manufacturing storage sheds for retail sale
- (9) Safe ingress and egress

The applicant has not been able to acquire the deed to the property, but has provided GARCO Assessor's documentation. After staff confirmation, this satisfies a condition of the Conditional Use Permit application checklist.

Another potential issue is the fact that Rieger Performance Motors has been in operation since around mid-October, 2010. Mr. Rieger states in the narrative, "I found it quite necessary to service customers for a number of reasons. While this was not an ideal situation, I understand the importance of the process and found someone to assist me in the paperwork."

Staff Comment: Rather than penalizing Mr. Rieger for operating a business without the required approval of a Conditional Use Permit, we commend him for his honesty and forthright admittance. In addition, it would appear that approval of a Conditional Use Permit is in the best interest of the Town and its residents. The Town should receive sales tax revenue and our citizens will have another automotive service station to choose from when it is needed. Also, the property location and environmental protections appears ideal because of the surrounding development and purported hazardous waste disposal procedures. It is not bordered by residential dwelling units except for residential homes located north of West Main St. Therefore, it appears that this automotive service station is compatible with the surrounding neighborhood.

IV Staff Recommendation:

The staff recommends approval of the Rieger Performance Motors Conditional Use Permit with the following conditions:

1. The storage of new or used auto parts, tires and related items shall be confined indoors or in a self-contained storage unit located on the property that does not interfere with vehicle circulation and complies with all building and zoning code requirements.
2. Continuous automotive idling shall be confined indoors and have adequate ventilation; idling of automobiles outside shall be restricted to three (3) minutes.
3. All automotive work shall be performed indoors except for minor visual and diagnostic analysis.
4. Hazardous chemicals such as motor oil, anti-freeze and brake fluid shall be collected by a professional company that specializes in the disposal of hazardous chemicals.
5. Outside storage of hazardous chemicals such as motor oil, anti-freeze and brake fluid shall be prohibited unless stored in containers that are approved of by the Environmental Protection Agency or any other State or Federal Agency that has authority in such matters.

6. The interior of the building shall contain at least two fire extinguishers that are designated for automobiles and chemicals commonly used in automotive service stations.
7. Vehicles slated for sale shall not be stored on the property.
8. The applicant and property owner will work with the New Castle Public Works Department to locate a stop sign on the on the northeast side of 8th street adjacent to West Main St.
9. 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.

