



**Town of New Castle**      **Planning & Code Administration**  
450 W. Main Street      **Department**  
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(1)

**Staff Report**  
**Bronwyn Rittner – Conditional Use Permit – Mobile Vending Carts or Stands**  
**New Castle Planning and Zoning – Hearing – July 13, 2016**

Report Date: 7/5/16

**Project Information**

**Name of Applicant:** Bronwyn Rittner

**Applicant’s Mailing Address:** POB 253, New Castle, CO. Telephone – (307) 690-6527  
**/Phone/Email** E-mail: bronwynbhb@gmail.com

**Property Address:** Ritter Plaza has no address, New Castle, CO 81647

**Property Owner:** Town of New Castle

**Owner Mailing Address** POB 253, New Castle, CO 81602. Telephone – (307) 690-6527  
**/Phone:**

**Proposed Use:** Mobile vending cart or stand

**Municipal Code Reference:** Chapter 17.84 – Conditional Uses, Chapter 17.68 – Chapter 17.36.050 (16), 12.20 – Parks and Public Places – Chapter 12.20.100

**Street Frontage:** W. Main St.

**Existing Zoning:** Commercial (C-1)

**Surrounding Zoning:** North – Commercial (C-1), South – public alley, West – Commercial (C-1) and East Commercial (C-1)

**Hours of Operation:** Thursday – Saturday from 2 P.M. to 7:00 P.M. or later and on Sunday from 1:00 P.M. to 5:00 P.M.

**I Description of application:**

This application is a request for a conditional use permit to allow for a mobile vending cart or stand

using the northeast corner of Ritter Plaza (Plaza). The application is different than previous requests to use the Plaza area in that Ms. Rittner and her son, Simon, will have very limited hours and days of operation (see above). Previous application to use the plaza intended to use the Plaza much more often and wanted to rope off an area that excluded patrons not dining at the former restaurant east of Ritter Plaza (present day Lazy Bear Restaurant). The applicant is interested in teaching her son entrepreneurial skills by learning how to run a business.

The types of goods to be sold will not require a State License to sell eatable products. Ms. Rittner and her son, Simon, plan to sell sealed package ice cream cones, ice cream bars, frozen candy bars, bottled water, soda, iced coffee, juice and lemonade. They would also like to have two (2) small bistro style tables with four (4) like chairs. There will be a twelve (12) by twelve (12) tent overhanging the ice cream stand. Christmas style lighting décor will be used to illuminate the ice cream stand after dark. It is recommended that Ms. Rittner use the smallest output of lumens necessary to illuminate the area for safety and visual reasons. It is very important that lighting does not illuminate the commercial/residential unit immediately west of the subject location.

The applicant has stated in her application that they may stay open later than 7 P.M. from Thursday through Saturday, however, it is recommended they close by 9:00 P.M. with all clean-up work performed and all personal items removed from Ritter Plaza by 9:00 P.M.. Also, Ms. Rittner has mentioned a summer lease be contracted with the Town for the months of June through September. There has not been discussion about whether or not the council will require such lease and whether or not there will be a permit fee or monthly lease payment agreement with the Town. I do not recommend that there be a permit fee or fee for leasing the area because of the scale and length of time for the use of Ritter Plaza. In other words, the applicant should obtain a permit, however, the permit fee of \$150.00 appears to be excessive due to the limited operational hours and days of the use of Ritter Plaza.

Another requirement for those who wish to use public spaces or parks in New Castle is that applicants need to obtain insurance naming the Town as additionally insured. The reason for this is to protect the Town AND applicant if someone had an accident or they damaged things such as the benches, pavers, water spigot, and landscape in Ritter Plaza

Pending P&Z recommendation of approval with conditions, the Town Council will need to consider Chapter 12.20.100 – Parks and Public Places - Encroachments, use, commercial & industrial activities whereas it is “unlawful ... (to) conduct any commercial or industrial activity in or on any Town open space, park or public place, except when the Town issues a permit authorizing such activity.” Once approved by council, Ms. Rittner will be able to exclusively occupy the northeast corner of Ritter Plaza during operating hours, however, the general public is to have free and unabated occupation for the remainder of Ritter Park Plaza. Formal Town events using Ritter Plaza will have seniority for the use of all of Ritter Plaza.

The applicant will also be responsible for managing the noise level, if any, so as not to disturb nearby residential dwelling units. If there are complaints, the applicant must appear before council to address this issue as well as any other type of complaint.

## **II Development Application Contents:**

### 1. Development Application

2. Site plan of Ritter Plaza
3. Performance Standards agreement
4. List of property owners within 250 feet

### **III Application Issues/Concerns:**

The applicant has submitted a site plan of Ritter Plaza. Although the applicant has asked for many legitimate waivers of certain requirements, I have listed all of the requirements below. The requirements for a site plan are:

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

**Staff Comment** – The site plan identifies the location of the ice cream stand in the northeast corner of Ritter Plaza and adjacent structure and use of property east of the subject map, but does not show the adjacent uses or structure west of the Plaza (It looks like the copying process removed the structure and use (C-1)). The site plan shows the sidewalk but not W. Main St. located north of the ice cream stand. The land south of the Plaza identifies parking spaces, but not the east – west alley.

- (2) Boundary and size of lot

**Staff Comment** – The submitted site plan generally depicts the boundary of Ritter Plaza, but not the square footage.

- (3) Boundary location, height and setbacks

**Staff Comment** – This is not relevant to the application.

- (4) Off-street parking and loading areas

**Staff Comment** – Off-street parking is located south of the Plaza and loading area is irrelevant.

- (5) Points of ingress and egress

**Staff comment** – Access is from the south and north boundary by foot traffic only.

- (6) Service and refuse areas

**Staff Comment** – The site plan shows a trash can near the ice cream stand which the applicant will provide and remove after each sales event. Service area is not needed. The ice cream stand is not a service area as “service areas” refers to vehicles delivering products for a business that need ground space for delivery.

- (7) Signs and exterior lighting

**Staff Comment** – There will a sandwich board sign near the sidewalk on the north side of the Plaza. If the sign is eighteen (18) inches wide with no more than four (4) square feet total, there will not be a need for a sign permit as it is exempt from the sign code. The sign must be removed when operations cease. Anything larger than eighteen (18) inches wide or more than four (4) square feet will require the applicant to submit a sign permit. The applicant will have a small string of lights overhanging the tent after dark.

- (8) Fencing, landscaping and screening

**Staff Comment** – Existing planter boxes and trees are on the site plan. Screening is not applicable for this application.

(9) Compliance with performance standards

**Staff Comment** – The applicant has submitted a signed document stating the applicant 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** – Easements are prescriptive in the Original Town of New Castle. Gas, water and sewer lines are not shown on the site plan. This is of no major concern. The site plan does illustrate the location of electric and water spigot in the northeast corner of the Plaza. The applicant plans to use both for power and cleaning the pavers after each sales event.

#### **IV 17.84.070 Alterations**

No approved conditional use may be altered, structurally enlarged, expanded in parking area 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 chapter 17.84 – Conditional Uses

#### **V Staff Recommendation:**

The staff recommends approval of the Conditional Use Permit for a mobile vending cart or stand in Ritter Plaza with the following conditions:

1. 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.
2. The applicant shall comply with all sign code regulations.
3. 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.
4. 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.
5. The applicant shall remove the sign, tent, personal items like the cooler and any trash from Ritter Plaza as well as hosing down the area near the ice cream stand after each sales event.
6. The applicant will finish all clean-up work and removal of personal property by 9:00 P.M. from Thursday through Saturday.
7. All Town sponsored events will have priority for the use of all of Ritter Plaza.
8. Lights surrounding the 12' X 12' tent shall not illuminate the commercial/residential unit immediately west of the subject location.

9. Applicant shall obtain all necessary permits or licenses to use the Property and pay all necessary fees, if any, as directed by Town Council.

10. Applicant will obtain insurance naming the Town as additionally insured.