

**Memorandum**

**To: Mayor and Council**  
**From: Tom Baker, Town Administrator**  
**Date: June 20, 2017**  
**Re: Turtlepoop Annexation Agreement and Zone District**

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**Purpose:** The purpose of this memorandum is to provide Council with a brief explanation regarding how we amended the Annexation Agreement to reflect the direction of Town Council at the May 6<sup>th</sup> meeting. Please see Annexation Agreement Sections 4.4, 4.5, and 4.7.

**Background and Explanation:**

Annexation Agreement – As Council is aware, the annexation of a parcel of land without a specific development plan unusual. During the annexation process Council has the ability to stipulate any number of conditions to further the larger community good, but once a property is annexed and zoned then the land use code governs future development processes and Council loses its unique ability to gain community improvements, to a degree. We are making an exception for the 3.2 acre Turtlepoop annexation, which is not submitting a development plan at this time but the applicant hopes secure the relocation of the CDOT Glenwood Springs Residency.

At the June 6<sup>th</sup> meeting Council directed staff to amend the Annexation Agreement and allow the applicant a reduced Road Impact Fee and reduced Parkland Dedication exaction, if the applicant is able to secure our mutual vision/goal: the relocation of the CDOT Glenwood Springs Residency offices from Glenwood Springs to the Turtlepoop property in New Castle **or a similar use**. (The CDOT Glenwood Springs Residency is the formal name for the Engineering groups and their support staff, approximately 14 people total.) All parties agree that this is our desired vision/ goal, but unfortunately it is not a guaranteed outcome.

The importance of the Glenwood Springs Residency is that many of the jobs in that organization are family supporting jobs (many engineers have six figure compensation packages) and can have a positive impact on the New Castle economy and perhaps set an example of how New Castle can become an employment center. It is always possible that the applicant will not be successful in her quest to relocate the Glenwood Springs Residency to New Castle and then will propose another use for the property.

If another use is proposed we wish to be clear that the reduced Road Impact Fee and reduced Parkland Dedication exaction are only available for a use that has a similar number of professional jobs with like compensation to the CDOT Glenwood Springs Residency. We do not view a higher number of lower paying professional or office jobs a similar use.

New Zone District – I have added one permitted use to the P&Z's recommended new zone district - Section 17.69.030 4. Recreation and Entertainment Uses: is a new suggested item

g. Recreation Center/Fieldhouse

This use is being proposed as a way for this zone district to look beyond this annexation and to future annexations in the entire area on both the north and south sides of Bruce Road./CR 240.

Finally, because the speed of this process, I suggest that we ask our Planner Doug Dotson to review this new zone district and prepare remarks, if any, for 2<sup>nd</sup> Reading on July 18<sup>th</sup>.

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**MEMORANDUM**

**TO:** New Castle Town Council

**FROM:** Town Attorney

**DATE:** June 16, 2017

**SUBJECT:** Mixed-Use Commercial zone district

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Based on staff's recent review of the Town's Comprehensive Plan and various zoning districts in connection with the Turtlepoop LLC annexation application, Town staff has identified the desirability of adding a new zone district to the Town. That district is the Mixed-Use Commercial (MU-C) zone district. Creating a new zone district requires amending the Town's zoning code and compliance with the Town's land use application procedures, including a noticed public hearing before the Planning & Zoning Commission ("Commission") and final approval by Town Council. Code Sec. 16.08.010 & .040.

Town staff prepared proposed zoning text for the new zone district. The new district text draws on the mixed-use commercial focus area of the Comp Plan and existing zones such as the commercial general district. Staff enumerated a variety of permitted and conditional uses that would be appropriate for the district. The primary focus of the district is commercial use. Indeed, residential-only buildings including single and multi-family dwellings are not listed as permitted or conditional uses within the district. Residential units are only allowed above retail and office space buildings.

The Commission reviewed the proposed text at public hearing held on June 14, 2017. The Commission's role was to review and provide a recommendation regarding the new zone district and evaluate whether the proposed uses and bulk, height, and density provisions were necessary and appropriate. There were three members of the public present at the hearing, and only one provided limited comments on the proposed zoning text. When discussing the zone district, some of the Commissioners expressed a desire that residential development within the new district be geared toward affordable housing, hence the smaller unit and lot sizes in the proposed text.

The Commission considered the Comp Plan, future land use map, and Staff and public comment to make its final recommendation regarding the new zone district. Enclosed with this memorandum is a redline of the Staff-proposed zoning text that shows the changes the Commission made at the hearing and incorporated into its recommendation regarding the new zone district.

Town Council makes the ultimate decision regarding the new zoning text and will have the opportunity to make any changes to the text it deems necessary or appropriate. Ordinance

No. TC 2017-3, as proposed, includes the zone text as edited and recommend by the Commission. The Ordinance can be updated for second reading if Council chooses to make any changes to the proposed text.

Note that Town Staff recommends zoning the Turtlepoop LLC property under the new zoning district once the property is annexed. If Council approves the new zone district and zones the Turtlepoop property as Mixed-Use Commercial, the zoning of the Turtlepoop property will not go into effect until Ordinance No. 2017-3 is effective. The Town Attorney will be present at the June 20, 2017 Council meeting to discuss these matters and to answer any questions you may have regarding the same.

**TOWN OF NEW CASTLE, COLORADO**  
**ORDINANCE NO. TC-2017-3**

AN ORDINANCE OF THE NEW CASTLE TOWN COUNCIL AMENDING  
TITLE 17 OF THE NEW CASTLE MUNICIPAL CODE TO ADD A NEW  
ZONE DISTRICT KNOWN AS THE MIXED-USE COMMERCIAL DISTRICT.

WHEREAS, Title 17 (“Zoning Code”) of the Town of New Castle municipal code sets forth the provisions and regulations regarding zoning within the Town; and

WHEREAS, Chapter 17.92 authorizes the Town to amend, supplement, or repeal all or portions of the Zoning Code and establishes procedures for doing so; and

WHEREAS, Town staff has determined that, based on the Town’s Comprehensive Plan (“Comp Plan”) and anticipated annexations into the Town, it would be beneficial to add a new zone district to the Zoning Code; and

WHEREAS, Town staff submitted an application to add a new chapter to the Zoning Code—Chapter 17.69—that creates the Mixed-Use Commercial zone district and regulations applicable to the new district; and

WHEREAS, the full text of Chapter 17.69 is set forth in **Exhibit “A”** hereto and incorporated herein by this reference; and

WHEREAS, pursuant to section 17.92.030(B) of the New Castle Municipal Code the Planning and Zoning Commission held a public hearing on June 14, 2017, to consider the Town’s application to amend the Zoning Code; and

WHEREAS, as set forth in Resolution PZ No. 2017-4, the Commission recommended that Town Council approve the Zoning Code text changes as set forth in Exhibit A; and

WHEREAS, the Town Council desires to add Chapter 17.69 to the Zoning Code and create a new zone district for the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE NEW CASTLE TOWN COUNCIL AS FOLLOWS:

1. Recitals Incorporated by Reference. The foregoing recitals are incorporated by reference herein as findings and determinations of the New Castle Town Council.
2. New Zone District. The Town Council hereby approves the creation of the Mixed-Use Commercial zone district.
3. Text Amendment. The Town Council approves addition of Chapter 17.69 to the Zoning Code and the text amendments set forth in Exhibit A hereto.

4. Severability. Each section of this Ordinance is an independent section and a holding of any section or part thereof to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

5. Effective Date. This Ordinance shall be effective fourteen days after final publication pursuant to section 4.3 of the Town Charter.

INTRODUCED on June 20, 2017, at which time copies were available to the Council and to those persons in attendance at the meeting, read by title, passed on first reading, and ordered published in full and posted in at least two public places within the Town as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the Town of New Castle, Colorado on \_\_\_\_\_ 2017, read by title and number, passed without amendment, approved, and ordered published as required by the Charter.

TOWN OF NEW CASTLE, COLORADO  
TOWN COUNCIL

By: \_\_\_\_\_  
Art Riddile, Mayor

ATTEST:

\_\_\_\_\_  
Melody Harrison, Town Clerk

## EXHIBIT A

### **17.69 – Mixed-Use Commercial District**

#### **17.69.010 – Generally**

The mixed-use commercial (MU-C) zone district shall be governed in conformity with the following regulations.

#### **17.69.020 – Purpose**

The Mixed-Use Commercial zone district provides for a diversity of commercial, service, and entertainment-related uses in mixed-use buildings allowing for residential units above commercial units. The Mixed-Use Commercial zone advances New Castle's Comprehensive Plan principles, policies, and goals geared toward a strong and sustainable local and visitor economy with a diversity of commercial opportunities. The Mixed-Use Commercial zone creates economic vitality by providing a mix of commercial uses with greater flexibility in architecture and design, enhancing New Castle's community character. The Mixed-Use Commercial zone district provides an opportunity to transition from more intensive, single-use districts such as residential or commercial zone districts.

#### **17.69.030 – Permitted uses**

1. Business or professional office unless otherwise provided in this Chapter;
2. Retail sales, including:
  - a. Restaurants without drive-through facilities,
  - b. Outdoor dining facilities,
  - c. Furniture store,
  - d. Dry goods store,
  - e. General merchandise store,
  - f. Fabric store,
  - g. Apparel and accessories,
  - h. Appliance store,
  - i. Automotive parts and accessory sales,
  - j. Botanical plants and gardening materials,
  - k. Hardware store,
  - l. Building materials and supplies,
  - m. Newsstand,
  - n. Drug store,
  - o. Medical supply,
  - p. Small equipment sales and leasing (not to include sales and leasing of heavy equipment),
  - q. Electronic equipment,
  - r. Grocery store,
  - s. Sporting goods and non-motorized recreation sales,
  - t. Office equipment sales and leasing,
  - u. Pets and pet supplies,
  - v. Wine and beer making supplies and equipment,

- w. Video sales and rentals,
  - x. Bakery and doughnut shop,
  - y. Coffee shop
  - z. Temporary open-air market limited to one time per week for a maximum of 120 days per year.
3. Services, including:
- a. Banks and financial institutions with drive-through facilities,
  - b. ATM machines,
  - c. Travel agency,
  - d. Upholstery shop,
  - e. Appliance repair service,
  - f. Barbershop and beauty salon,
  - g. Photography studios,
  - h. Tailor shop,
  - i. Appliance, office equipment and small engine repair,
  - j. Newspaper office,
  - k. Mail or package delivery,
  - l. Instructional studios,
  - m. Printing,
  - n. Blueprinting and copying,
  - o. Real estate office,
  - p. Private studio for the creation and sale of arts and crafts;
  - q. Cabinet shop with or without fabrication,
  - r. Glass shop
4. Recreation and entertainment uses, including:
- a. Arcade,
  - b. Health clubs,
  - c. Parks and open spaces,
  - d. Playgrounds,
  - e. Movie Theater,
  - f. Performing arts studio
5. Residential units and associated accessory uses and home occupations above commercial, service, retail, or business or professional offices
6. Civic and governmental functions including:
- a. Police station,
  - b. Fire station,
  - c. Dispatch center
  - d. Museum

#### **17.69.040 – Conditional Uses**

1. Hotel, motel, resort, or lodge
2. Laundromat
3. Dry cleaning for individual service
4. Bus station and other public-transit related facilities
5. Temporary gravel extraction
6. Communication towers
7. Wine, beer, or spirit manufacturing facility, including breweries and distilleries
8. Restaurant with associated wine, beer, or spirit manufacturing facility, including breweries and distilleries
9. Any use not otherwise listed in this Chapter 17.69 and that is compatible with the purpose of the Mixed-Use Commercial zone district.

#### **17.69.050 – Retail Establishments**

All retail sales and displays must be conducted entirely within a building, except the display and sale of botanical materials and seating facilities for outdoor dining facilities. Building materials and gardening supplies may be stored outside of a building but must be totally screened from view when observed from any point on the adjacent public right-of-way or any point on the natural grade of the adjoining properties by opaque fencing or walls. Use of tennis court screening or slats inserted in a chain-link fence shall not be considered opaque fencing or walls.

#### **17.69.060 – Lot Dimensions**

The following lot dimension requirements shall apply in this zone district:

- A. Minimum lot area: one thousand seven hundred fifty (1,750) square feet
- B. Minimum lot width: thirty-five (35) feet
- C. Maximum lot area: three and one-half (3.5) acres

#### **17.69.070 – Floor Area**

The following floor area requirements shall apply in this zone district:

- A. Residential:
  - i. Minimum: four hundred (400) square feet per dwelling unit
  - ii. Maximum: one thousand two hundred (1,200) square feet per dwelling unit
- B. Non-residential:
  - i. Minimum: one thousand (1,000) square feet per unit
  - ii. Maximum: twenty thousand (20,000) square feet per building

**17.69.080 – Setback Requirements**

The following setback requirements shall apply in this zone district:

Front	Minimum from local street: 0 feet Minimum from arterial or collector street: 10 feet Maximum for all street types: 20 feet
Rear	10 feet
Side	5 feet
Between structures and/or accessories	20 feet

**17.69.090 – Building Stories and Height**

Maximum building height shall be forty (40) feet, with up to three stories, excluding basements, with residential uses allowed on the second and third stories.

**17.69.100 – Density**

The maximum density in this zone district shall be up to 20 units per acre, whether consisting of single or mixed-use buildings.

**17.69.110 – Lot Coverage**

At least 10% of the total lot area shall be landscaped. All land use and building permit applications regarding property within the Mixed Use Commercial district shall be accompanied by a landscaping plan for approval by the Town Council.

The maximum impervious area of each lot within the district shall be 90% of the total lot area.

**TOWN OF NEW CASTLE, COLORADO**  
**RESOLUTION NO. PZ 2017-4**

A RESOLUTION OF THE NEW CASTLE PLANNING AND ZONING COMMISSION RECOMMENDING APPROVAL OF AN AMENDMENT TO TITLE 17 OF THE NEW CASTLE MUNICIPAL CODE TO ADD A NEW ZONE DISTRICT KNOWN AS THE MIXED-USE COMMERCIAL DISTRICT.

WHEREAS, Title 17 (“Zoning Code”) of the Town of New Castle municipal code sets forth the provisions and regulations regarding zoning within the Town; and

WHEREAS, Chapter 17.92 authorizes the Town to amend, supplement, or repeal all or portions of the Zoning Code and establishes procedures for doing so; and

WHEREAS, Town staff has determined that, based on the Town’s Comprehensive Plan (“Comp Plan”) and anticipated annexations into the Town, it would be beneficial to add a new zone district to the Zoning Code; and

WHEREAS, Town staff submitted an application to add a new chapter to the Zoning Code—Chapter 17.69—that creates the Mixed-Use Commercial zone district and regulations applicable to the new district; and

WHEREAS, the full text of Chapter 17.69 is set forth in **Exhibit “A”** hereto; and

WHEREAS, pursuant to section 17.92.030(B) of the New Castle Municipal Code the Planning Commission held a public hearing on June 14, 2017, to consider the Town’s application to amend the Zoning Code; and

WHEREAS, based on the testimony presented by staff and the general public, the Planning Commission desires to recommend that the Town Council approve changes to the Zoning Code as set forth herein.

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

1. Recitals Incorporated by Reference. The foregoing recitals are incorporated by reference herein as findings and determinations of the New Castle Planning Commission.
2. Recommendation. The Planning and Zoning Commission hereby recommends that the Town Council approve the creation of the Mixed-Use Commercial District and the changes to the Zoning Code set forth in Exhibit A.

THIS RESOLUTION PZ 2017-4 was adopted by the New Castle Planning and Zoning Commission by a vote of \_\_\_ to \_\_\_ on the 14th day of June, 2017.

NEW CASTLE PLANNING AND  
ZONING COMMISSION

By: \_\_\_\_\_  
Chuck Apostolik, Chairman

ATTEST:

\_\_\_\_\_  
Mindy Andis, Deputy Town Clerk

**EXHIBIT A**

New Zoning Text

## **17.69 – Mixed-Use Commercial District**

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