

**TOWN OF NEW CASTLE, COLORADO  
RESOLUTION NO. TC 2018-23**

**A RESOLUTION OF THE NEW CASTLE TOWN COUNCIL APPROVING A  
CONDITIONAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT ON  
PROPERTY LOCATED IN THE RESIDENTIAL-1 ZONE DISTRICT.**

WHEREAS, on September 5, 2018, Steve and Shannon Kyle (“Applicant”) submitted a Conditional Use Permit Application (“Application”) for the property located at 802 W. Main Street, New Castle, Colorado, and legally described in Exhibit A hereto (“Property”); and

WHEREAS, a portion of the Property is zoned Commercial 1 (C-1) and the balance is zoned Residential 1 (R-1); and

WHEREAS, Applicant owns the Property; and

WHEREAS, a single-family dwelling is currently located on the C-1 portion of the Property and a detached garage is located on the R-1 portion of the Property; and

WHEREAS, Applicant seeks a permit to create and use an accessory dwelling unit (“ADU”) above the garage the is located on the R-1 portion of the Property; and

WHEREAS, pursuant to § 17.20.050(M) of the New Castle Municipal Code (“Code”), the use proposed by Applicant is a conditional use in the R-1 zone district, requiring the issuance of a conditional use permit pursuant to § 17.84 of the Code; and

WHEREAS, following a duly-noticed public hearing held on October 24, 2018 pursuant to § 17.84.040(B) of the Code, the New Castle Planning and Zoning Commission recommended conditional approval of the Application; and

WHEREAS, on November 6, 2018, the New Castle Town Council considered the Application at a public meeting; and

WHEREAS, pursuant to Code § 17.84.050 the Town Council hereby finds that the Application:

1. is eligible for conditional review under Section 17.84.040;
2. is generally compatible with adjacent land uses;
3. meets all requirements of Section 17.84.020, 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. is consistent with the comprehensive plan; and
5. the Town has the capacity to serve the proposed use with water, sewer, fire and police protection.

NOW, THEREFORE, BE IT RESOLVED 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. Listing of Approved Uses. The following constitute the uses for this Property that the Commission recommends be approved under the Application:

A. One Accessory Dwelling Unit as that term is defined in §17.04.050 of the New Castle Municipal Code to be located on the R-1 portion of the Property

3. Approval. The New Castle Town Council hereby approves the Application and use proposed therein pursuant to § 17.84.050 of the New Castle Municipal Code subject to the following conditions:

A. All representations of the Applicant in written Application materials and in verbal presentations submitted to the Town or made at public hearings before the Planning Commission or Town Council and reflected in the minutes thereof shall be considered part of the Application and binding on the Applicant;

B. Applicant shall comply with all applicable building, residential, electrical and municipal code requirements including all sign code regulations and § 17.72.230 of the Town Municipal Code;

C. 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, 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, with such show-cause hearing open to the public and the Applicant or owner being able to present testimony or offer other evidence on their behalf;

D. 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;

E. New water service will extend from the primary dwelling tap rather than the Wheeler Lane water line and will maintain the minimum standard separation distance required by the Town for sanitary sewer and gas utilities. Concrete encasement measures can be utilized to protect the water line from the sanitary sewer when applicable; and

F. Applicant shall be required to pay all additional water and sewer tap fees and water rights dedication fees associated with the conditional use. Applicant shall pay \$6,000 of said fees within 30 days of approval of the Application and prior to, and as a condition of, the issuance of the Planner's conditional use certificate. Applicant shall pay

the remaining balance (\$3,000.00) plus 4% simple interest thereon prior to issuance of a certificate of occupancy, and in any event no later than two years after approval of the Application, and shall execute a promissory note for repayment of the balance of the fees according to the foregoing terms, which shall include a no pre-payment penalty provision;

G. 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 Applicant has entered into an agreement with the Town specifying that all conditions imposed by the Town council 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.

THIS RESOLUTION NO. TC 2018-23 was adopted by the New Castle Town Council by a vote of 7 to 0 on the 6<sup>th</sup> day of November, 2018.

NEW CASTLE TOWN COUNCIL

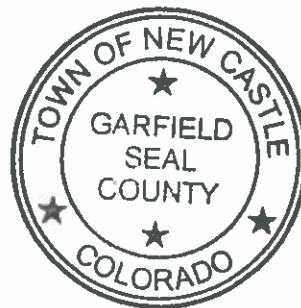
By: \_\_\_\_\_

*Art Riddile*

Art Riddile, Mayor

ATTEST:

*Melody Harrison*  
Melody Harrison, Town Clerk



**EXHIBIT A**  
Legal Description

The property that is the subject of the Application described in Resolution No. TC 2018-23 is legally described as follows:

A Parcel of land in the Town of New Castle, County of Garfield, State of Colorado situated in the SE1/4NW1/4 of Section 31, Township 5 South, Range 90 West of the Sixth Principal Meridian being all of Lots 15 and 16 and the West 6 feet of Lot 14, all in Block No. 16 of said Town of New Castle, also being a part of the SE1/4NW1/4 of said Section 31, lying Northerly of the Northerly right of way line of Main Street in said Town of New Castle and Easterly of the center of a concrete wall said wall being constructed along the Easterly bank of Elk Creek, said parcel of land is described as follows:

Beginning at a point on the Northerly right of way line of Main Street in said Town of New Castle, said point being on the Southerly line of Block 16 in said Town of New Castle, whence the Southeast corner of said Block 16 bears South 89°54'00" East 344.00 feet; thence North 89°54'00" West along the Southerly line of said Block 16, also being along the Northerly right of way line of said Main Street, 98.50 feet to a point in the center of said concrete wall; thence along said concrete wall North 02°00'00" East 92.00 feet; thence North 00°12'00" East 76.00 feet; thence North 20°00'00" West 46.91 feet; thence leaving said concrete wall North 85°16'00" East 92.85 feet; thence South 00°06'00" West 103.21 feet along a fence as constructed and in place; thence South 89°54'00" East 4.52 feet; thence South 00°06'00" West 115.00 feet to a point on the Southerly line of said Block No. 16, the Point of Beginning.

EXCEPT THAT portion conveyed to the Town of New Castle in deed recorded January 17, 1983 in Book 617 at Page 64 as Reception No. 336089

County of Garfield, State of Colorado