

**TOWN OF NEW CASTLE, COLORADO
RESOLUTION NO. TC 2020-10**

**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 December 26, 2019, Vance and Elyse Hutchinson (collectively, "Applicant") submitted a Conditional Use Permit Application ("Application") for the property located at 226 N. 7th Street, New Castle, Colorado, and legally described in Exhibit A hereto ("Property"); and

WHEREAS, the Property is zoned Residential 1 (R-1); and

WHEREAS, Applicant owns the Property; and

WHEREAS, a single-family dwelling is currently located on the Property along with a detached garage; and

WHEREAS, Applicant seeks a permit to create and use an accessory dwelling unit ("ADU") above the garage that is located on 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 Chapter 17.84 of the Code; and

WHEREAS, as required under Code § 17.84.040(B), the New Castle Planning and Zoning Commission held a duly-noticed public hearing on February 12, 2020, to consider the Application and has recommend approval of the same; and

WHEREAS, the New Castle Town Council ("Council") considered the application at a duly-noticed public meeting held on March 3, 2020; and

WHEREAS, pursuant to Code § 17.84.050, 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 of the Code, 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 the Property that are approved under the Application:

A. One Accessory Dwelling Unit as that term is defined in §17.04.050 of the New Castle Municipal Code

3. Approval. The Town Council hereby approves the Application and use proposed therein pursuant to § 17.84.050 of the 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 other 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. Applicant shall be required to pay all water and sewer tap fees and water rights dedication fees associated with the conditional use at 0.8 EQRs, which totals \$14,400.00. The Applicant shall pay \$4,800.00 of said fees within 30 days of the effective date of this Resolution and prior to, and as a condition of, the issuance of the Planner's conditional use certificate. Applicant shall pay the remaining balance (\$9,600.00) prior to the issuance of the building permit for the construction of the ADU over the garage;

F. New water service will extend from the primary dwelling tap and will maintain adequate sewer and water separation as determined and required by the Town Public Works Department;

G. Any new exterior lighting will be dark-sky compliant pursuant to the Comprehensive Plan Goal EN-4;

H. 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 Section 17.84.070 of the Code; and

I. 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 effective date of this Resolution, or the Application is deemed withdrawn by the Applicant and is of no further force and effect.

THIS RESOLUTION TC 2020-10 was adopted by the New Castle Town Council by a vote of 7 to 0 on the 3rd day of March, 2020.

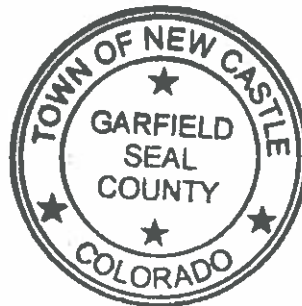
TOWN OF NEW CASTLE TOWN COUNCIL

By:


Art Riddile, Mayor

ATTEST:


Melody Harrison, Town Clerk




Agreement

By signing below, Applicant hereby agrees to complete and comply with all conditions imposed by the Town Council in this Resolution No. TC 2020-10. Applicant further agrees that the use and improvements approved in said Resolution will be conducted and constructed in accordance with the approved Application site plan and development schedule.

DATED this 11th day of March, 2020.



Vance Hutchinson



Elyse Hutchinson

EXHIBIT A
Legal Description

The property that is the subject of the Application described in Resolution TC 2020-10 is legally described as follows:

Lot 5A, a resubdivision of Lots 4 and 5, Gordon Subdivision, Town of New Castle, according to the plat thereof recorded October 17, 1991, at Reception No. 428362, County of Garfield, State of Colorado



COPY

Town of New Castle
Conditional Use Agreement
Resolution TC-2020-10

This agreement is dated March 11, 2020 and is between the TOWN OF NEW CASTLE, COLORADO, a Colorado municipal corporation ("Town"), and Vance and Elyse Hutchinson ("Applicant").

WITNESSETH:

WHEREAS, on March 3rd, 2020, the Town approved an application by the Applicant for a Conditional Use Permit for an Accessory Dwelling Unit (ADU) Lot 5A of the Gordon Subdivision (street address: 226 N. 7th St., New Castle, Colorado), ("the subject property") in the R-1 zone district, upon certain conditions; and

WHEREAS, the parties desire to enter into this Agreement to set forth their understanding regarding conduct of the above use.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the Town and the Applicant agree as follows:

1. Conditions of Permit. The following conditions will be completed or observed in connection with the above conditional use permit:
 - A. Applicant shall comply with all applicable building, residential, electrical and other municipal code requirements, including all sign code regulations and § 17.72.230 of the Town Municipal Code;
 - B. 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;
 - C. 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;

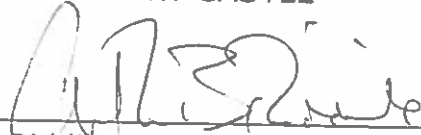
- D. Applicant shall be required to pay all water and sewer tap fees and water rights dedication fees associated with the conditional use at 0.8 EQRs, which totals \$14,400.00. The Applicant shall pay \$4,800.00 of said fees within 30 days of approval of the Application and prior to, and as a condition of, the issuance of the Planner's conditional use certificate. Applicant shall pay the remaining balance (\$9,600.00) prior to the issuance of the building permit for the construction of the ADU;
 - E. New water service will extend from the primary dwelling tap and will maintain adequate sewer and water separation as determined and required by the Town Public Works Department;
 - F. Any new exterior lighting will be dark-sky compliant pursuant to the Comprehensive Plan Goal EN-4;
 - G. 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 Section 17.84.070 of the Code; and
 - H. 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 effective date of this Resolution, or the Application is deemed withdrawn by the Applicant and is of no further force and effect.
2. Site Plan and Development Schedule. Applicant agrees that the conditional use and improvements shall be in accordance with the approved application site plan and development schedule.
 3. Complete Agreement. This document embodies the entire and complete agreement of the parties on the subject matter herein. No promise or undertaking has been made by any party, and no understanding exists with respect to the transaction contemplated, except as expressly set forth herein. All prior and contemporaneous negotiations and understandings between the parties are integrated and merged into this Agreement.
 4. Modification. This Agreement shall not be modified or amended except by written agreement of the parties.
 5. Severability. If any covenant, term, condition, or provision contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such covenant, term, condition, or provision shall be severed or modified to the extent necessary to make it enforceable, and the resulting Agreement shall remain in full force and

effect.

- 6. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties, their heirs, devisees, executors, administrators, assignees, transferees, and successors in interest.

IN WITNESS WHEREOF, the Town and Applicant have executed this Conditional Use Agreement on the day and year first above written.

TOWN OF NEW CASTLE



 Art Riddile, Mayor


ATTEST:



 Melody Harrison, Town Clerk



 Vance Hutchinson



 Elyse Hutchinson

STATE OF COLORADO)
 COUNTY OF GARFIELD) ss.

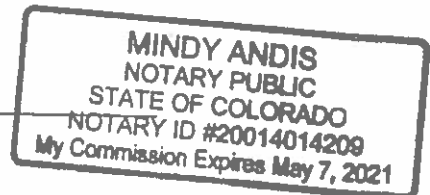
Subscribed to before me this 11th day of March, 2020, by Vance and Elyse Hutchinson.

Witness my hand and official seal.

My commission expires: May 7, 2021



 Notary Public



Town of New Castle
450 West Main Street
PO Box 90
New Castle CO 81647 970-984-2311
Receipt No: 6.004773 Mar 11, 2020

Hutchinson CUP

Previous Balance:	.00
Miscellaneous	
Water Rights Dedication 20-4030-340	4,800.00
Water Rights Dedication	
Total:	----- 4,800.00 =====
Check	
Check No: 6490	4,800.00
Total Applied:	4,800.00
Change Tendered:	----- .00 =====

03/11/2020 4:12 PM