



Posted \_\_\_\_\_  
Remove 10/25/18

Town of New  
Castle  
450 W. Main  
Street

Administration Department  
Phone: (970) 984-2311  
Fax: (970) 984-2716  
[www.newcastlecolorado.org](http://www.newcastlecolorado.org)

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## Agenda

### New Castle Planning & Zoning Commission Regular Meeting Wednesday, October 24, 2018, 7:00 p.m., Town Hall

#### Call to Order, Roll Call, Meeting Notice

#### Conflicts of Interest (Disclosures are on file with Town Clerk & Secretary of State)

#### Citizen Comments on Items NOT on Agenda

#### Public Hearing

- A. Brief description of application: Application for Conditional Use Permit for Accessory Dwelling Unit (ADU)

Legal description: Block 16, Lots 15 & 16 & west 6 feet of Lot 14 Original Townsite, Town of New Castle

Common address: 802 West Main Street, New Castle

Applicant: Steve & Shannon Kyle

Landowner: Steve & Shannon Kyle

- B. Resolution PZ-2018-05 Recommending Approval of Conditional Use Permit for Accessory Dwelling Unit (ADU)

#### Comments/Reports

- C. Items for Next Planning and Zoning Agenda  
D. Commission Comments/Reports  
E. Staff Reports

#### Review Minutes of Previous Meetings

- F. October 10, 2018 Minutes

#### Adjournment

Administration Department  
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Town of New Castle  
 PO Box 90  
 450 W. Main Street  
 New Castle, Co 81647

### DEVELOPMENT APPLICATION

Applicant: <b>STEVE AND SHANNON KYLE</b>	
Address: <b>P.O. BOX 68</b>	Phone: <b>970-379-1370</b>
<b>802 WEST MAIN ST. NEW CASTLE</b>	FAX:
Property Owner: <b>STEVE AND SHANNON KYLE</b>	E-mail: <b>STEVEWKYLE@GMAIL.COM</b>
Address: <b>SAME</b>	Phone:
	FAX:
	E-mail:
Contact Person: <b>STEVE KYLE</b>	
Address:	Phone:
	FAX:
	E-mail:
Property Location/Address: <b>802 WEST MAIN ST. NEW CASTLE</b>	
Legal Description: <b>SECTION 31 TOWNSHIP: 5 RANGE 90 TR IN BLOCK 16</b>	Acres: <b>.49</b>
Existing Zone ( <a href="#">Not sure? Click here for help</a> ): <b>CT</b>	
Existing Land Use: <b>RESIDENTIAL</b>	

#### TYPE(S) OF LAND USE(S) REQUESTED

- |  |   |
|--|---|
| <input type="checkbox"/> Pre-Annexation Agreement  | <input type="checkbox"/> Lot Line Adjustment or Dissolution                             |
| <input type="checkbox"/> Annexation  | <input type="checkbox"/> Site Specific Development Plan/Vested Rights                   |
| <input type="checkbox"/> Subdivision (including Minor and Major Subdivisions, Lot Splits, Sketch Plans, Subdivision Preliminary Plans, Subdivision Final Plans, & Condominiumizations) | <input type="checkbox"/> Variance   |
| <input type="checkbox"/> Amended Plat  | <input type="checkbox"/> Zoning   |
| <input type="checkbox"/> Planned Unit Development (including PUD Sketch Plans, Preliminary PUD Development Plans, PUD Master Plans and Final PUD Development Plans)                    | <input type="checkbox"/> Zoning Amendment   |
| <input type="checkbox"/> Floodplain Development Permit   | <input type="checkbox"/> Re-zoning  |
|  | <input type="checkbox"/> R-1-HC Identification  |
|  | <input checked="" type="checkbox"/> Conditional Use Permit or Special Review Use Permit |
|  | <input type="checkbox"/> Other  |

**RECEIVED**

**SEP 05 2018**

TOWN OF NEW CASTLE, CO  
 BUILDING DEPARTMENT

This development would create 1 residences and 0 square feet of commercial space.

Applicant must also complete and submit the appropriate [checklist](#) for the type of land use requested. Both the applicant and the property owner must sign this application.

Applicants are encouraged to schedule a pre-application meeting with the Town Administrator and/or Town Consultants prior to submitting this application.

**AGREEMENT TO PAY CONSULTING FEES AND EXPENSES**

It is the policy of the Town of New Castle that all land use applications must be filed in the Office of the Town Clerk to receive formal consideration. Please refer to the Town Clerk's Office for all applicable procedures.

However, the Town encourages land use applicants to consult informally with members of the Town Staff, including outside consultants, prior to filing applications if the applicant has questions regarding areas within Staff members' particular expertise; PROVIDED THAT THE POTENTIAL APPLICANT AGREES TO REIMBURSE THE TOWN FOR ALL FEES AND EXPENSES RELATING TO SUCH INFORMAL MEETINGS.

The Town employs outside consultants for engineering, surveying, planning, and legal advice. These consultants bill the Town on an hourly basis as well as for expenses including but not limited to copies, facsimile transmissions, and long distance telephone calls.

It is the Town's policy that all persons wishing to hold informal meetings with members of the Town Staff acknowledge responsibility for all fees and expenses charged by outside consultants by signing this Agreement below.

I acknowledge and agree to pay the Town of New Castle all actual costs incurred by the Town in relation to legal, engineering, surveying, planning, or other services performed by consultants to the Town as a result of such consultants' review and comment upon, or other services related to, land use proposals and/or applications proposed by me or on my behalf, regardless of whether or not such application is formally filed with the Town. Interest shall be paid at the rate of 1.5% per month on all balances not paid within thirty (30) days of the date of the statement. In the event the Town is forced to pursue collection of any amounts due and unpaid, the Town shall be entitled to collect all costs of collection in addition to the amount due and unpaid, including but not limited to reasonable attorney's fees and costs.

SO AGREED this 5 day of SEPT, 2018.

STEVE KYLE  
Applicant (Print Name)

[Signature]  
Signature

970-379-1370  
Telephone

P.O. Box 68 New Castle, CO 81647  
Mailing Address

STEVE & SHANNDI KYLE  
Property Owner

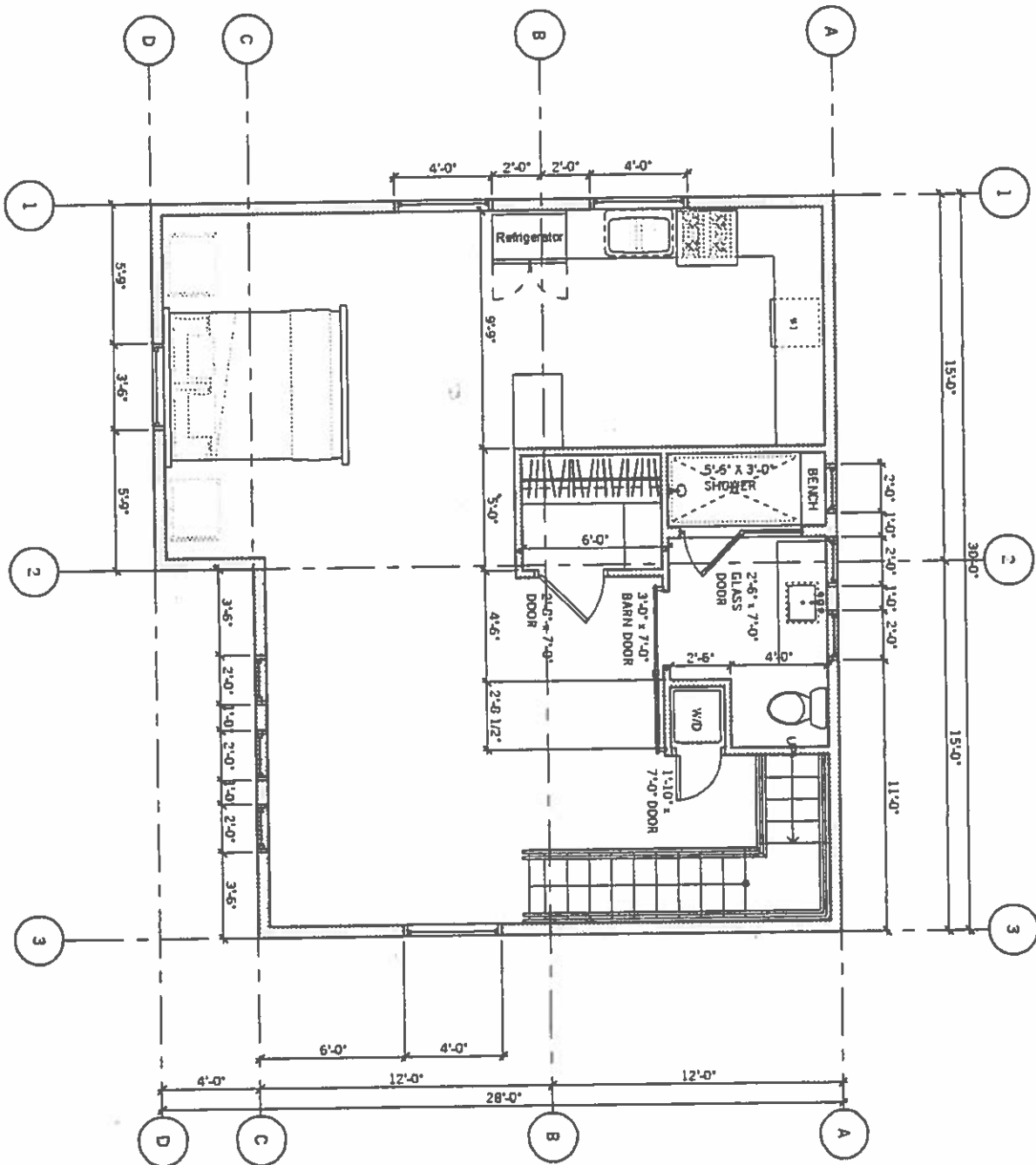
\_\_\_\_\_  
Mailing Address If Different From Above

\_\_\_\_\_  
Relationship to Applicant or Potential Applicant

Type of application: \_\_\_\_\_

Property description: \_\_\_\_\_

# EXHIBIT A



# EXHIBIT A

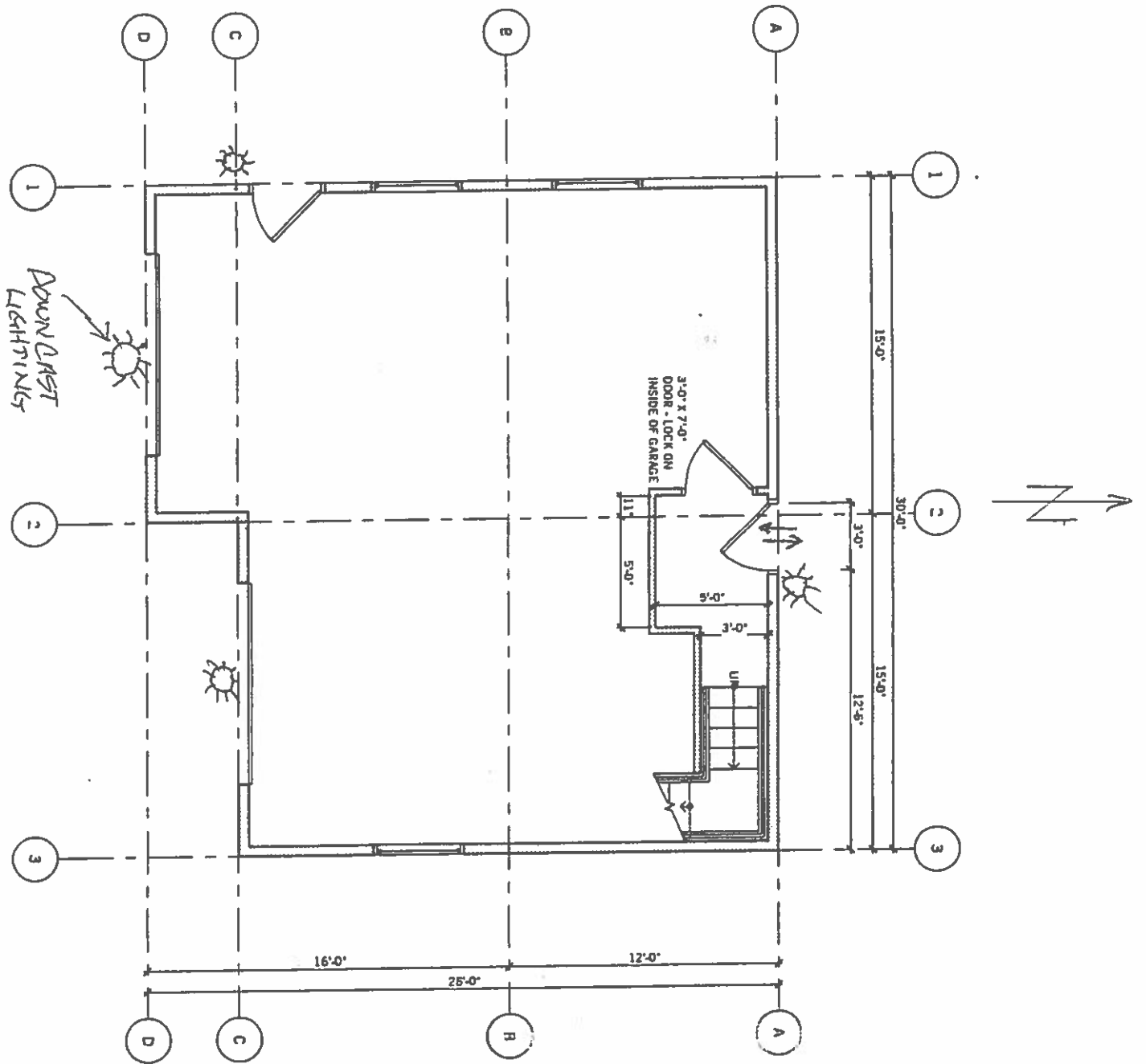
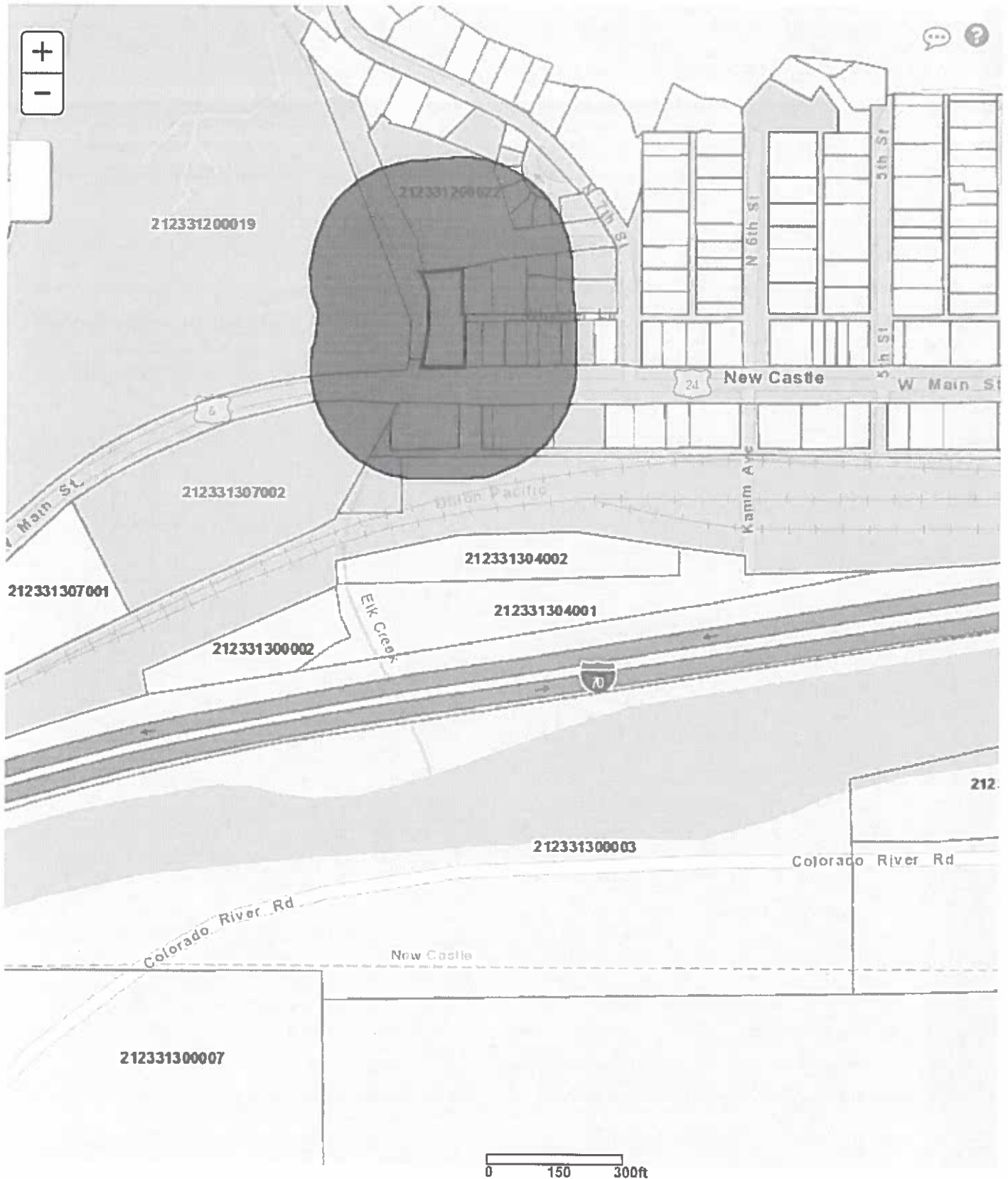


EXHIBIT B





Garfield County Colorado Land Explorer



# EXHIBIT D

Kyle, 802 W Main St, New Castle, CO

Property owners within 250 ft:

Shady Court Mobile Home Park: STOREY ENTERPRISES, INC, Mailing Address 719 WASHINGTON COURT  
GRAND JUNCTION, CO 81507

SENIOR, JERRY R D & JUDITH R,  
Physical Address 791 W MAIN ST  
NEW CASTLE 81647  
Mailing Address PO BOX 397 NEW CASTLE, CO 81647-0397

Owner KRICK, JON R & LESLIE J  
Physical Address 731 W MAIN ST  
NEW CASTLE 81647  
Mailing Address 91 RIVERBEND DRIVE NEW CASTLE, CO 81647

Owner MCFARLAND, RONALD P & LINDA G  
Physical Address 721 W MAIN ST  
NEW CASTLE 81647  
Mailing Address PO BOX 885 NEW CASTLE, CO 81647-0885

Owner PARKER, ANNETTE  
Physical Address 792 W MAIN ST  
NEW CASTLE 81647  
Mailing Address 792 W MAIN STREET NEW CASTLE, CO 81647

Owner TURTLE, DAVID J  
Physical Address 782 W MAIN ST  
NEW CASTLE 81647  
Mailing Address 840 COUNTY ROAD 137 GLENWOOD SPRINGS, CO 81601-9707

Owner ENGELBERT, CHARLES R  
Physical Address 752 W MAIN ST  
NEW CASTLE 81647  
Mailing Address PO BOX 21 NEW CASTLE, CO 81647

Owner GORDON, ROBERT JUDY  
Physical Address 742 W MAIN ST  
NEW CASTLE 81647  
Mailing Address 164 LIMBERPINE CIRCLE PARACHUTE, CO 8163-5600

Owner RIEGER, MICHAEL THOMAS & JOHANN G & SHARON K  
Physical Address 732 W MAIN ST  
NEW CASTLE 81647  
Mailing Address PO BOX 412 NEW CASTLE, CO 81647

Owner RITTNER, ROBERT L  
Physical Address 720 W MAIN ST  
NEW CASTLE 81647  
Mailing Address PO BOX 253 NEW CASTLE, CO 81647

Owner VAN GORP, EMILY ANN  
Physical Address 702 W MAIN ST  
NEW CASTLE 81647  
Mailing Address 702 W MAIN STREET NEW CASTLE, CO 81647

Owner HARRISON, MELODY  
Physical Address 111 N 7TH ST  
NEW CASTLE 81647



EXHIBIT D

**Mailing Address** 111 N 7TH STREET NEW CASTLE, CO 81647

**Owner** OVERALL, MACEL C

**Physical Address** 748 WHEELER LN  
NEW CASTLE 81647

**Mailing Address** PO BOX 764 NEW CASTLE, CO 81647

**Owner** GARRISON, MARY R

**Physical Address** Not available  
NEW CASTLE 81647

**Mailing Address** PO BOX 764 NEW CASTLE, CO 81647

**Owner** PFALZGRAFF, BOBBI LEE & JUSTIN

**Physical Address** 758 WHEELER LN  
NEW CASTLE 81647

**Mailing Address** PO BOX 171 NEW CASTLE, CO 81647

**Owner** JOHNSON, STEVEN W

**Physical Address** 792 WHEELER LN  
NEW CASTLE 81647

**Mailing Address** PO BOX 171 NEW CASTLE, CO 81647-0982

**Owner** GARFIELD COUNTY SCHOOL DISTRICT RE-2

**Physical Address** 804 W MAIN ST  
NEW CASTLE 81647

**Mailing Address** 839 WHITERIVER AVENUE RIFLE, CO 81650-3515.

**Owner** GIBSON, WILLIAM F & PAMELA A

**Physical Address** 185 CAYWOOD CIR  
NEW CASTLE 81647

**Mailing Address** 3022 CRYSTAL SPRINGS ROAD CARBONDALE, CO 81623

**Owner** GIBSON, BRIAN

**Physical Address** 165 CAYWOOD CIR  
NEW CASTLE 81647

**Mailing Address** 52 PTARMIGAN LANE GLENWOOD SPRINGS, CO 81601

**Owner** GIBSON, ERIC L

**Physical Address** 155 CAYWOOD CIR  
NEW CASTLE 81647

**Mailing Address** 3022 COUNTY ROAD 112 CARBONDALE, CO 81623

**Owner** NEW CASTLE, TOWN OF

**Physical Address** 801 W MAIN ST  
NEW CASTLE 81647

**Mailing Address** PO BOX 90 NEW CASTLE, CO 81647-0166

**Owner** PAYNE, NANCY F

**Physical Address** 131 7TH ST  
NEW CASTLE 81647

**Mailing Address** 131 N 7TH STREET NEW CASTLE, CO 81647

EXHIBITE

**Commonwealth Title Company of Garfield County, Inc.**

127 E. 5th Street  
Rifle, CO 81650  
Phone (970) 625-3300 / Fax (970) 625-3305

1322 Grand Avenue  
Glenwood Springs, CO 81601  
Phone (970) 945-4444 / Fax (970) 945-4449

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**Date: July 14, 2017**

**File No. 1706050-1**

**Property Address. 802 Main Drive, New Castle**

**Lender**

Fairway Independent Mortgage Corporation  
811 Colorado Avenue  
Glenwood Springs, CO 81601  
Attn: Lindsay Stewart  
Email: [lindsays@fairwaymc.com](mailto:lindsays@fairwaymc.com)

**Closing Contacts**

Glenwood Springs office - 970-945-4444

Rifle office - 970-625-3300

Linda Gabossi - [linda@cwtrifle.com](mailto:linda@cwtrifle.com)

Denna Conwell - [denna@cwtrifle.com](mailto:denna@cwtrifle.com)

Connie Rose Robertson - [connie@cwtrifle.com](mailto:connie@cwtrifle.com)

Patti Reich - [patti@cwtrifle.com](mailto:patti@cwtrifle.com)

Jessica Reed - [jessica@cwtrifle.com](mailto:jessica@cwtrifle.com)

**COMMITMENT FOR TITLE INSURANCE  
SCHEDULE A**

**File No. 1706050-1**

1. Effective Date: July 5, 2017 at 7:59 AM

2. Policy or Policies to be issued:

(a) ALTA OWNER POLICY (ALTA 6-17-06)

Proposed Insured:

(b) ALTA LOAN POLICY (ALTA 6-17-06)

\$360,000.00

Proposed Insured:

**Fairway Independent Mortgage Corporation, ISAOA/ATIMA**

3. The Estate or interest in the land described or referred to in the Commitment and covered herein is Fee Simple and is at the effective date hereof vested in:

**Shannon B. Kyle and Steven W. Kyle**

4. The land referred to in this Commitment is situated in the County of Garfield, State of Colorado and described as follows:

**See Attached Exhibit "A"**

**TITLE CHARGES**

<u>Mortgagee's Policy</u>	<u>\$896.00 Reissue</u>
Tax Certificate	15.00
Form 100	50.00
Form 8.1	50.00
<u>Form 100.30</u>	<u>106.00</u>
Delete Standard Exceptions (Lender's)	65.00
Closing Protection Letter	25.00

COUNTERSIGNED: \_\_\_\_\_ **Patrick P. Burwell** \_\_\_\_\_  
Authorized Officer or Agent

Valid Only if Schedule B and Cover Are Attached

American Land Title Association  
Schedule A  
(Rev'd 6-06)

Issuing Agent:  
Commonwealth Title Company of Garfield County, Inc.  
127 East 5th Street Rifle, CO 81650

**EXHIBIT "A"**

A Parcel of land in the Town of New Castle, County of Garfield, State of Colorado situated in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  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 SE $\frac{1}{4}$ NW $\frac{1}{4}$  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 11°02'00" 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

## SCHEDULE B - SECTION 1

The Following are the requirements to be complied with prior to the issuance of said policy or policies. Any other instrument recorded subsequent to the date hereof may appear as an exception under Schedule B of the policy to be issued. Unless otherwise noted, all documents must be recorded to the office of the Clerk and Recorder of the County in which said property is located.

1. Deed of Trust from Shannon B. Kyle and Steven W. Kyle to the Public Trustee of Garfield County for the use of Fairway Independent Mortgage Corporation.
2. Release of record by the Public Trustee of the Deed of Trust from Shannon B. Kyle and Steven W. Kyle for the use of Cornerstone Mortgage Company showing an original amount of \$210,400.00, dated June 28, 2012 and recorded July 2, 2012 as Reception No.820924
3. Release of record by the Public Trustee of the Deed of Trust from Shannon B. Kyle and Steven W. Kyle for the use of Alpine Bank showing an original amount of \$100,000.00, dated October 29, 2012 and recorded December 3, 2012 as Reception No.827955
4. Execution of a Final Affidavit and Agreement indemnifying the Company against unfiled mechanic's and materialmen's liens.

## DISCLOSURES

Colorado Division of Insurance Regulation 8-1-2, Section 5, Paragraph F provides: "Whenever a title entity provides the closing and settlement service that is in conjunction with the issuance of an owner's policy of title insurance, it shall update the title commitment from the date of issuance to be as reasonably close to the time of closing as permitted by the real estate records. Such update shall include all impairments of record at the time of closing or as close thereto as permitted by the real estate records. The title insurance company shall be responsible to the proposed insured(s) subject to the terms and conditions of the title commitment, other than the effective date of the title commitment, for all undisclosed matters that appear of record prior to the time of closing." Provided Commonwealth Title Insurance Company of Garfield County, Inc. conducts the closing of the insured transaction and is responsible for recording the legal documents from the transaction, exception number 5 will not appear on the Owner's Title Policy and the Lenders Policy when issued. This Notice is required by Colorado Division of Insurance Regulation 8-1-2, Section 5, Paragraph G.

Pursuant to Colorado Division of Insurance Regulation 8-1-2, notice is hereby given that affirmative mechanic's lien protection for the prospective insured owner may be available upon compliance with the following conditions:

A. The land described in Schedule A of this Commitment must be a single family residence, which includes a condominium or townhouse unit. B. No labor or materials may have been furnished by mechanics or materialmen for purposes of construction on the land described in Schedule A of this Commitment within the past 6 months. C. The Company must receive appropriate affidavits indemnifying the Company against all unfiled mechanic's and materialmen's liens. D. Any deviation from conditions A through C above is subject to such additional requirements or information as the Company may deem necessary; or, at its option, the Company may refuse to delete the exception. No coverage will be given under any circumstances for labor or material for which the insured has contracted for or agreed to pay. Colorado Division of Insurance Regulation 8-1-2, Section 5, Paragraph M.

Pursuant to Colorado Division of Insurance Regulation 8-1-3, notice is hereby given of the availability of a Closing Protection Letter which may, upon request, be provided to certain parties to the transaction.

Pursuant to C.R.S. §10-11-122, notice is hereby given that:

A) The subject real property may be located in a special taxing district; B) A Certificate of Taxes Due listing each taxing jurisdiction may be obtained from the County Treasurer's authorized agent; C) The information regarding special districts and the boundaries of such districts may be obtained from the Board of County Commissioners, the County Clerk and Recorder, or the County Assessor; and D) The company will not issue its policy of policies of title insurance contemplated by the commitment until it has been provided a Certificate of Taxes due from the County Treasurer or the County Treasurer's authorized agent; or until the Proposed Insured has notified or instructed the company in writing to the contrary

C.R.S. §30-10-406 requires that all documents received for recording or filing in the clerk and recorder's office shall contain a top margin of at least one inch and a left, right, and bottom margin of at least one half of an inch. The clerk and recorder may refuse to record or file any document that does not conform.

Pursuant to C.R.S. §10-11-123, notice is hereby given:

This notice applies to owner's policy commitments containing a mineral severance instrument exception, or exceptions, in Schedule B, Section 2.

A) That there is recorded evidence that a mineral estate has been severed, leased, or otherwise conveyed from the surface estate and that there is a substantial likelihood that a third party holds some or all interest in oil, gas, other minerals, or geothermal energy in the property; and B) That such mineral estate may include the right to enter and use the property without the surface owner's permission.

If the transaction includes a sale of the property and the price exceeds \$100,000.00, the seller must comply with the disclosure/withholding provisions of C.R.S. §39-22-604.5 (Nonresident withholding).

Pursuant to C.R.S. §38-35-125(2), no person or entity that provides closing and settlement services for a real estate transaction shall disburse funds as a part of such services until those funds have been received and are available for immediate withdrawal as a matter of right. Colorado Division of Insurance Regulation 8-1-2, Section 5, Paragraph J. **"Good Funds Law"**

C.R.S. §39-14-102 requires that a real property transfer declaration accompany any conveyance document presented for recordation in the State of Colorado. Said declaration shall be completed and signed by either the grantor or grantee and Section 38-35-109 (2) of the Colorado Revised Statutes, 1973, requires that a notation of the purchasers legal address, (not necessarily the same as the property address) be included on the face of the deed to be recorded.

## SCHEDULE B - SECTION 2

Schedule B of the Policy or Policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the company:

1. Rights or claims of parties in possession not shown by the Public records.
2. Easements, or claims of easements, not shown by the public records.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts, which a correct survey and inspection of the premises would disclose, and which are not shown by the public records.
4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this commitment.
6. Any and all unpaid taxes, assessments and unredeemed tax sales.
7. Any lien or charge on account of the inclusion of subject property in an improvement district.
8. Any and all water rights, claims, or title to water, whether or not the matters excepted are shown by the public record.
9. Right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted and a right of way for ditches or canals as constructed by the authority of the United States, as reserved in United States Patent recorded February 13, 1889 in Book 12 at Page 7.
10. Right of way granted to The Mountain States Telephone and Telegraph Co. in instrument recorded June 9, 1926 as Reception No. 95243.
11. Reservation of all seams of coal, oil, gas or other minerals and mines in instrument recorded December 16, 1941 as Reception No. 145401 and any and all assignments thereof or interests therein.

**NOTE: EXCEPTION(S) 1,2,3 and 4 WILL NOT APPEAR IN THE MORTGAGE POLICY TO BE ISSUED HEREUNDER.**

The Owner's Policy of Title Insurance committed for in this Commitment, if any, shall contain, in addition to the Items set forth in Schedule B - Section 2, the following items:

- (1) The Deed of Trust, if any, required under Schedule B - Section 1.
- (2) Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof.
- (3) any and all unpaid taxes, assessments and unredeemed tax sales.

NOTE: The policy (s) of insurance may contain a clause permitting arbitration of claims at the request of either the Insured or the Company. Upon request, the Company will provide a copy of this clause and the accompanying arbitration rules prior to the closing of the transaction.

## COMMONWEALTH TITLE COMPANY PRIVACY POLICY

### **We Are Committed to Safeguarding Customer Information**

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, we have adopted this Privacy Policy to govern the use and handling of your personal information.

### **Applicability**

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity.

### **Types of Information**

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means.

Information about your transactions with us, our affiliated companies, or others; and

Information we receive from a consumer reporting agency.

### **Use of Information**

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

### **Former Customers**

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

### **Confidentiality and Security**

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy. We currently maintain physical, electronic and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.





EXHIBIT F

820923 07/02/2012 04:44:18 PM Page 2 of 2  
Jean Alberico, Garfield County, Colorado  
Rec Fee: \$16.00 Doc Fee: \$26.30 eRecorded

**EXHIBIT A**

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 S 89 DEGREES 54' 00" E. 344.00 FEET  
THENCE NORTH 89 DEGREES 54'00" W 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 N. 11 DEGREES 02'00" E. 92.00 FEET  
THENCE N. 00 DEGREES 12'00" E. 76.00 FEET  
THENCE N. 20 DEGREES 00'00" W. 46.91 FEET  
THENCE LEAVING SAID CONCRETE WALL N. 85 DEGREES 16'00" E. 92.85 FEET  
THENCE S. 00 DEGREES 06'00" W. 103.21 FEET ALONG A FENCE AS CONSTRUCTED AND IN PLACE;  
THENCE S. 89 DEGREES 54'00" E. 4.52 FEET  
THENCE S. 00 DEGREES 06'00" W. 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

STATE OF COLORADO, )  
 ) ss.  
City and County of Denver)

The foregoing instrument was acknowledged before me this 8th day of December A. D. 1941 by H. C. Brown, Vice-President, Esten H. Cook, Secretary, THE WESTERN ELATERITE ROOFING CO.

Witness my hand and official seal.

My commission expires September 29, 1945.



Grace L. Starbird  
Notary Public.

FILED FOR RECORD EC. 16, 1941, at 10:12 o'clock A.M.

Walter J. Frost, Recorder.  
By Chas. S. Keegan, Deputy.

QUIT CLAIM DEED

#145401

THIS DEED, Made this 11th day of December in the year of Lord one thousand nine hundred and forty-one, between THE COLORADO FUEL AND IRON CORPORATION, a corporation duly organized and existing under and by virtue of the laws of the State of Colorado, of the first part, and S. E. WILSON, of the County of Garfield and State of Colorado, of the second part,

WITNESSETH, That the said party of the first part, for and in consideration of the sum of One Hundred Dollars (\$100.00) and other valuable consideration to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, hath remised, released, sold, conveyed and QUIT CLAIMED, and by these presents doth remise, release, sell, convey and QUIT CLAIM unto the said party of the second part, his heirs and assigns forever, all the right, title, interest, claim and demand which the said party of the first part hath in and to the following described tract or parcel of land situate, lying and being in the County of Garfield and State of Colorado, to-wit:

The Surface Only of a tract of land in the Southeast Quarter of the Northwest Quarter (SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>) of Section Thirty-one (31), Township Five (5) South, Range Ninety (90) West of the Sixth Principal Meridian, Garfield County, Colorado, lying in the band of abandoned Elk Creek channel described as follows:

Bounded on the North, East and South by Elk Creek, as Elk Creek is located and shown on the Plat of Town of New Castle, dated June 24, 1887, and recorded in Plat Book 1 at Pages 8 and 9, Garfield County records; and bounded on the West by the retaining wall along the easterly side of the present channel of Elk Creek as said retaining wall is now located and constructed. Together with all right, title and interest heretofore acquired by the party of the first part in and to the old channel of Elk Creek.

~~\$.55~~ I. R. S. Canceled.

RESERVING, HOWEVER, unto the party of the first part, its successors and assigns, all seams of coal, oil, gas or other minerals and mines lying under said lands, together with full right and liberty for itself, its successors and assigns and its lessees and all other persons or corporations by its authority or permission now existing, or hereafter granted, to explore, mine, remove and dispose of all coal, oil, gas and other minerals above excepted and reserved from the demised premises and/or within or under any adjoining or neighboring lands.

Party of the first part, its successors and assigns, as a condition to this demise shall not be responsible to the party of the second part, his heirs, administrators, executors, successors and assigns, for damages occurring by subsidence or depression arising out of the operations aforesaid, FURTHER RESERVING unto the party of the first part a right or ingress and egress in and from said demised premises for any and all of the purposes aforesaid.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of the said party of the first part, either in law or equity, to the only proper use, benefit and behoof of the said party of the second part, his heirs and assigns forever.

IN WITNESS WHEREOF, The said party of the first part hath caused its corporate name to be hereunto subscribed by its Vice President, and its corporate seal to be hereunto affixed, attested by its Secretary, the day and year first above written.

THE COLORADO FUEL AND IRON CORPORATION

ATTEST:

D. C. McGrew  
Secretary.



By S. G. Pierson  
Vice President

Handwritten mark resembling a stylized 'K' or '7'.

STATE OF COLORADO )  
                          )ss.  
CITY & COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 11th day of December, 1941, by S. G. Peirson as Vice President and D. C. McGrew as Secretary of The Colorado Fuel and Iron Corporation, a corporation.

My Notarial commission expires December 18, 1944.

Witness my hand and official seal.



Ruby L. Pearson  
Notary Public.

Filed for record Dec. 16, 1941 at 10:14 o'clock A. M.

Walter J. Frost, Recorder  
By Chas. S. Keegan, Deputy

#145408

STATE OF COLORADO )  
                          )SS.  
COUNTY OF GARFIELD)

W. G. McDONALD, being first duly sworn, upon his oath, deposes and says:

1. That a certain Chattel Mortgage, acknowledged and certified as provided by law, wherein J. W. Hunn was mortgagor and this affiant was mortgagee, was filed in the office of the Clerk and Recorder of Garfield County, Colorado, on November 20, 1939, as Document No. 137601.

2. That said mortgage was made to secure a sum in excess of \$2,500.00, to-wit, the sum of \$22,000.00.

3. That said mortgage was given in good faith to secure the payment of the sum of money mentioned therein.

4. That said sum of money is still unpaid.

5. That this sworn statement is filed within thirty days after two years from the date of filing said mortgage.

W. G. McDonald  
Mortgagee

This statement was acknowledged before me this 16th day of December, 1941, by W. G. McDonald, mortgagee.



Willis E. Parkison  
Notary Public.

My commission expires May 15, 1943.

Filed for record Dec. 16, 1941 at 2:45 o'clock P.M.

Walter J. Frost,  
Recorded.

#145427

C. H Darrow, Atty  
Glenwood Springs,  
Colorado

Receipt No. 93044

Estate No.

County Court of the County of Garfield

RECEIPT FOR INHERITANCE TAX  
OFFICE OF THE TREASURER OF  
THE STATE OF COLORADO

\$ 1.00

Denver, Colo. Oct 17, 1941

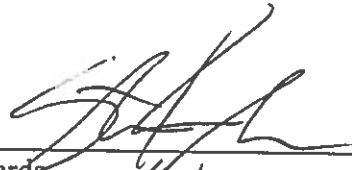
Received of Carol A Barshenyi, Admx of the estate of Harry W. Pottinger, deceased One and No/100 dollars for inheritance tax and fees for examination and issuance of waiver, as itemized below, due to the State of Colorado from said estate, pursuant to an order of the County Court of the above named County. Date of death of decedent Nov 28, 1918 Value of property, gross 1 000.00 deductions NIL net 1 000.00

Description of property:

The South 66 Ft of the North 1378 ft of the E 1/4 NE 1/4, Sec. 16 Twp 6 South, Range 89 west of the 6th P., being situate on the East side of the County road, the center line of which is coincident with the center line of Grand Avenue in the City of Glenwood Springs, Colorado, extended South, with improvements thereon

1 000 00

EXHIBIT H

I,  agree to abide by the following Performance Standards

Date: 9/7/18

**17.72.090 - Performance standards**

- A. Smoke. No use shall be permitted in any district unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to emission of smoke.
- B. Particulate Matter. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to emission of particulate matter.
- C. Dust, Odor, Gas, Fumes, Glare or Vibration. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to emission of dust, odor, gas, fumes, glare or vibration.
- D. Radiation Hazards and Electrical Disturbances. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to radiation control.
- E. Noise. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to noise.
- F. Water Pollution. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to water pollution.











MO HAIR  
by appointment only  
984-2736



Town of New Castle  
450 W. Main Street  
PO Box 90  
Planning/Building & Code Administration Department  
Phone: (970) 984-2311  
Fax: (970) 984-2716  
[www.newcastlecolorado.org](http://www.newcastlecolorado.org)

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**Staff Report**  
**Steve & Shannon Kyle – Conditional Use Permit – Accessory Dwelling Unit**  
**Planning & Zoning Commission – Hearing – October 24, 2018**

Report Date: 9/20/18

**Project Information**

**Name of Applicant:** Steve & Shannon Kyle

**Applicant's Mailing Address:** POB 68, New Castle, CO 81647  
**/Phone:** (970) 379-1370

**Property Address:** 802 W. Main St., New Castle, CO 81647

**Property Owner:** Steve & Shannon Kyle

**Owner Mailing Address:** POB 68, New Castle, CO 81647  
**/Phone:** (970) 379-1370

**Proposed Use:** Accessory Dwelling Unit (ADU)

**Municipal Code Reference:** Chapter 17.84 – Conditional Uses & 17.17.230 ADU's

**Legal Description:** Block 16, Lots 15 & 16 & west 6 feet of lot 14

**Size of Site:** .49 acre

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

**Existing Zoning:** 802 W. Main St. is the principle house and is zoned Commercial Transitional C/T – The ADU is in the R-1 Zone District

**Surrounding Zoning:** North – R-1, South – R-1/C-1, West – P (Performance) and East - C/T

**Off- Street Parking:** One off-street parking space for a one bedroom ADU and two-off street parking spaces for the main residence

**I Application:**

This Conditional Use Application (CUP), from applicants Steve & Shannon Kyle, is a request for an Accessory Dwelling Unit (ADU) in the R-1 Zone District which is the Original Townsite of New Castle entailing specific requirements for approval (See III below).

The CUP application is required to have a Planning & Zoning Commission (PNZ) noticed public hearing first. The PNZ makes one of three recommendations to Town Council. They are:

- 1) Approve the CUP as is;
- 2) Approve the CUP with conditions;
- 3) Deny the CUP.

**II Development Application Contents:**

1. Development Application
2. Exhibit A – ADU floor plan (2 pages)
3. Exhibit A-1 – Site plan
4. Exhibit B – 2 car garage – south elevation
5. Exhibit C – Vicinity map
6. Exhibit D – List of property owners within 250 feet (2 pages)
7. Exhibit E – Title Commitments (7 pages)
8. Exhibit F – Warranty deed (2 pages)
9. Exhibit G – Quit claim deed (2 pages)
10. Exhibit H – Performance standards
11. Applicant email dated 9/21/18

**III Application Compliance with 17.72.230 ADU's:**

In reviewing the CUP application, PNZ must consider the following **Municipal Code** requirements:

**17.72.230 - Accessory dwelling units (ADUs)**

- A. Accessory dwelling units are intended to be constructed in association with a primary single-family dwelling, to provide increased affordable housing opportunities within the town and to facilitate housing in close proximity to places of employment.

**Comment: The ADU is on same lot as the principle house and is located on the 2<sup>nd</sup> floor of a two-car garage with a proposed shop in the garage. It is within walking distance to downtown commerce, Town Hall and the Library.**

- B. Notwithstanding any maximum or minimum square footage requirements in the zone district per dwelling unit, ADUs shall contain not more than eight hundred fifty (850) square feet and not less than four hundred (400) square feet. Only one ADU shall be allowed per principle building. The square footage of ADUs shall be calculated using the total gross square footage associated with the ADU living space inclusive of storage, hallways, and basements but not including garage space.

**Comment: The total sq. ft. of the ADU is 780 sq. ft., thus it is less than the maximum sq. ft. allowed by code and more than the minimum sq. ft. There is not another ADU associated with the principle building.**

- C. ADUs shall not be allowed on lots smaller than five thousand (5,000) square feet. The square footage of the accessory dwelling unit shall not be greater than forty-seven (47) percent of the gross square footage of the principal building (inclusive of basement square footage but not including garages, uncovered decks, patios or porches) or eight hundred fifty (850) square feet whichever is less.

**Comment: The lot size is 21,344 sq. ft. and the total square footage of the ADU is 780 sq. ft. which is less than maximum square footage allowed by code.**

- D. Each ADU shall contain a kitchen equipped, at a minimum, with a cooking appliance, a sink, and a refrigerator/freezer with a capacity not less than six cubic feet.

**Comment: The ADU meets this code requirement. Applicant states the refrigerator is greater than 6 cubic feet.**

- E. Each ADU shall contain a bathroom equipped with, at a minimum, a sink, a toilet and a shower.

**Comment: The ADU contains a shower, sink and toilet, thus, it is in compliance.**

- F. No ADU shall contain more than two bedrooms, and one off-street parking space shall be provided for each bedroom in addition to the required parking space(s) for the principle building/use.

**Comment: The ADU has an open space floor plan whereas the kitchen, bedroom and living room are not partitioned off. The bathroom is in an enclosed space. The ADU is on the second floor above a 2-car garage. The principle home has ample parking space behind the house.**

ADU Off-street parking



Principle building off-street parking



- G. All water service connections made to an ADU shall comply with the town's water and wastewater service connection requirements. ADUs may be connected to the water and wastewater service lines serving the principle building or directly to the most convenient water or sewer main line; provided that the landowner shall bear all expense of such connections, shall obtain all necessary permits from the town prior to any road cuts, and shall, prior to connection, pay a tap fee to the town equal to 0.5 EQR if the ADU has one bedroom and 0.8 EQR if the ADU has or is capable of having two bedrooms. The owner shall also pay a water rights dedication fee in the same ratio as the tap fee.

**Comment: The ADU has one bedroom which requires an additional .5 EQR for water, sewer and a water rights dedication fee in the same proportionate amount. The total fee is \$9,000.**

**The applicants have requested to pay \$6,000 prior to a building permit application for the ADU. They are requesting that \$3,000 be deferred until the ADU is ready for a certificate of occupancy (CO). Applicants will pay all fees including \$3,000 plus interest prior to CO.**

- H. An ADU may not be condominiumized and/or sold separate and apart from the primary building to which it is accessory

**Comment: The applicants will not condominiumize the ADU. The applicants may live in the ADU and rent primary home.**

- I. The design, exterior treatments and color of an ADU shall be the same as, or compatible with, the design and exterior color and treatments of the primary building to which it is accessory.

***Comment:*** The principle dwelling unit was built in 1895 according to the Garfield County Assessor's website. It is mostly brick and the ADU is wood frame. They are not very similar but both dwelling units have dormers. Exterior colors were chosen by the applicants based on identifying the most common colors of nearby homes.

Principle home



J. An ADU may only be occupied by a single-family as defined in Section 17.04.050 of the

New Castle Municipal Code.

**Comment:** The applicants may be the lone occupants of the ADU or they may rent it to a single family or individual.

**IV Site Plan Requirements:**

(1) Adjacent land uses and location of adjacent structures

**Comment** – The site plan identifies land uses; the ADU is located in the R-1 zone district and the principle home is zoned Commercial Transitional (C/T). The area south of the property and across W. Main St. is zoned Commercial-1 and R-1. The location of structures are indicated on the east side of the ADU and principle home; a trailer park is located on the north side of the ADU.

(2) Boundary and size of lot

**Comment** – The submitted site plan describes the boundary and size of lots.

(3) Boundary location, height and setbacks

**Comment** – The ADU is 25 feet high. The front yard setback is not applicable because the ADU is located behind or north of the principle home. The rear and side yard setbacks are in compliance. The setbacks in the R-1 zone district are:

Front – 8 feet

Side – 8 feet

Rear – 10 feet for the principle building and 5 feet for a garage

(4) \*Off-street parking and loading areas

**Comment** – Off-street parking for an ADU is one space per bedroom. This ADU is one bedroom. Chapter 17.76 of the Town's code requires 2 spaces off-street parking spaces per principle dwelling unit regardless if there is an ADU associated with the property. There is no need to identify loading areas.

**\* 17.76.060 Town Council May Change Number of Spaces**

**(A)** The Town Council may increase or decrease the number of off-street parking spaces in consideration of the following factors:

(1) Probable number of cars owned by occupants of dwellings in the planned unit development;

(2) Parking needs of any non dwelling uses;

(3) Varying time periods of use; and

(4) Whatever joint use of common parking areas is proposed.

**(B)** Regardless of a reduction in off-street parking spaces by the Town Council, adequate space and site design shall be provided to accommodate the standard

(5) Points of ingress and egress

**Comment** – Ingress & egress is shown as an alley on the east side of the site plan. Access is from Wheeler Lane, a public right-of-way.

(6) Service and refuse areas

**Comment** – The service area is not applicable to the ADU application. The refuse area is identified on the site plan.

(7) Signs and exterior lighting

**Comment** – There will not be any signs. The site plan does not indicate downcast exterior lighting, however, Exhibit A – first floor plan displays lighting that is in compliance with the municipal code.

(8) Fencing, landscaping and screening

**Comment** – Existing landscaping and screening are shown on the site plan.

(9) Compliance with performance standards

**Comment** – The applicant has submitted a signed document stating the applicants 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

**Comment** – Easements are prescriptive in the Original Town of New Castle. Gas, water and sewer lines, fire hydrant and electrical pole are shown on the site plan. Utility requirements are not indicated on the plan.

#### **V 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

#### **VI Water, Sewer & Water Rights Dedication:**

The applicants have 1 EQR for the principle dwelling unit, but none for the ADU. A one bedroom ADU requires an additional .5 EQR or \$3,000 for water, \$3,000 for sewer and \$3,000 for the water rights dedication fee.

Prior to ADU building permit issuance, applicants will pay all fees including the first \$6,000 for water & sewer.

The applicants request that PNZ recommend to council that \$3,000 for a water rights dedication fee be deferred until the ADU is ready for a Certificate of Occupancy.

#### **VII Staff Recommendations**

The staff recommends approval of Steve & Shannon Kyle ADU Conditional Use Permit with the following conditions:

- A. New water service will extend from the primary dwelling tap rather than the Wheeler Lane water line. The Public Works staff has determined that the Wheeler Lane water line would be at overcapacity with an additional tap. The new water line will maintain the minimum standard separation distance stipulated 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.

- B. The applicant will be required to pay \$9000.00 for tap fees and water rights dedication fee (re: item VI above). The sum shall be paid 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
- C. 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.
- D. The applicant shall comply with all applicable building, residential, electrical and municipal code requirements including all sign code regulations.
- E. 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.
- F. 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.
- 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.

**TOWN OF NEW CASTLE, COLORADO  
PLANNING AND ZONING COMMISSION  
RESOLUTION NO. PZ 2018-05**

A RESOLUTION OF THE NEW CASTLE PLANNING AND ZONING  
COMMISSION RECOMMENDING APPROVAL OF 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 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, as required under § 17.84.040(B), the New Castle Planning and Zoning Commission held a duly-noticed public hearing on October 24, 2018, to consider the Application; and

WHEREAS, pursuant to Code § 17.84.050 the Planning Commission 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 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 and Zoning Commission.

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

3. Recommendation. The Planning and Zoning Commission hereby recommends that the Town Council approve 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. 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 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;

F. 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

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 PZ 2018-05 was adopted by the New Castle Planning and Zoning Commission by a vote of \_\_ to \_\_ on the 24<sup>th</sup> day of October, 2018.

NEW CASTLE PLANNING AND  
ZONING COMMISSION

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

ATTEST:

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

**EXHIBIT A**  
Legal Description

The property that is the subject of the Application described in Resolution PZ 2018-5 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" 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

1  
2 **New Castle Planning and Zoning Commission Meeting**  
3 **Wednesday, October 10, 2018, 7:00p.m., Town Hall**

4  
5 **Call to Order**

6 Commission Chair Apostolik called the meeting to order at 7:00pm.

7  
8 **Roll Call**

9 Present Chair Apostolik  
10 Commissioner Bourquin  
11 Commissioner Johannsson  
12 Commissioner Ruggles  
13 Commissioner Sass  
14  
15 Absent Commissioner Leland  
16 Commissioner Lucio

17  
18 Also present at the meeting were Town Administrator David Reynolds, Town  
19 Planner Paul Smith, Assistant Town Attorney Haley Carmer, Deputy Town Clerk  
20 Mindy Andis and members of the public.

21 **Meeting Notice**

22 Deputy Town Clerk Mindy Andis verified that her office gave notice of the meeting  
23 in accordance with Resolution TC-2018-1.

24  
25 **Conflicts of Interest**

26 There were no conflicts of interest.

27  
28 **Citizen Comments on Items NOT on the Agenda**

29 There were no citizen comments.

30  
31 **Public Hearing**

32 Conditional Use Permit

33  
34 Purpose: Application for Lot Split

35  
36  
37 Legal description: Talbot Subdivision, Parcel A, according to the lot boundary  
38 adjustment plat thereof recorded at reception no. 571485

39  
40 Common Address: 6300 CR 335, New Castle

41  
42 Applicant: Burning Mountain Land & Cattle, LLC

43  
44 Landowner: Burning Mountain Land & Cattle, LLC

45  
46 Resolution PZ 2018-4 Recommending Approval of a Lot Split of Property Located at  
47 6300 Cty Rd 335 in the Town of New Castle

1 Commission Chair Chuck Apostolik opened the Public Hearing at 7:01 p.m.

2  
3 Town Administrator Dave Reynolds said the purpose of the Lot Split application  
4 hearing is for a lot split that will create a new parcel in the Industrial Zone District  
5 located south of the Colorado River and west of the 105 Interchange. This is a  
6 straight forward land use application.

7  
8 **The applicant submitted legal description of Parcel “A” before the lot split and Parcels A  
9 and A-1 after the lot split.\* At the request of Town attorney, the title of the Final Plat is  
10 now “A Re-subdivision of Parcel A Talbott Subdivision”.**

11  
12 \*Parcel A-1 is referred to in some of the Application materials as “Tract A Coal Ridge  
13 Subdivision.” At the Town attorney’s request, Parcel A-1 is now used to refer to the lot created  
14 through the proposed lot split instead of “Tract A.”

15  
16 Staff recommends approval of the Burning Mountain Land & Cattle, LLC Lot Split with the  
17 following conditions:

- 18  
19 1. Applicant shall reimburse the Town for any and all expenses incurred by the  
20 Town regarding this approval, including without limitation all costs incurred by  
21 the Town’s outside consultants such as legal and engineering costs.
- 22  
23 2. All representations of the Applicant in written Application materials and in verbal  
24 presentations submitted to the Town or made at public hearings before the  
25 Planning Commission or Town Council and reflected in the minutes thereof shall  
26 be considered part of the Application and binding on the Applicant.

27  
28 Applicant Russell Talbott, Thanked the commission for taking the time to review and hear his  
29 application.

30  
31 Commissioner Bourquin asked about the ingress and egress for the two lots.

32  
33 Mr. Talbott said the current access entrance for the current lot will go with the new lot. Also,  
34 currently creating an easement agreement for the new lot which will give the current lot an  
35 easement for the current access road.

36  
37 Chair Apostolik closed the Public Hearing at 7:05 p.m.

38  
39 Assistant Town Attorney Hailey Carmer said she has been working with Surveyor,  
40 Sam Phelps for the final plat. The new lot will be “Re-subdivision Parcel A Talbott  
41 Subdivision”.

42  
43 **Motion: Commission Chair Apostolik made a motion recommending  
44 approval of Resolution PZ-2018-4, Recommending Approval of a Lot Split  
45 of Property Located at 6300 Cty Rd. 335 in the Town of New Castle,  
46 Commissioner Sass seconded the motion. The motion passed on a roll call  
47 vote: Chair Apostolik: Yes; Commissioner Sass: Yes; Commissioner  
48 Johannsson: Yes; Ruggles: Yes; Commissioner Bourquin: Yes.**

1 **Items for next Planning and Zoning Agenda**

2 Administrator Reynolds said there will be another land use application coming  
3 before the commission for an Accessory Dwelling Unit (ADU) in downtown.  
4

5 **Staff Reports**

6 Administrator Reynolds said there is possibly another land use application coming,  
7 but it is not complete.  
8

9 **Commission Comments and Reports**

10 There were no comments or reports.  
11

12 **Review Minutes from Previous Meeting**

13 **Motion: Commission Chair Apostolik made a motion to approve the July 25,**  
14 **2018 meeting minutes as submitted. Commissioner Sass seconded the**  
15 **motion and it passed unanimously.**  
16

17 **Motion: Chair Apostolik made a motion to adjourn the meeting.**  
18 **Commissioner Johannsson seconded the motion and it passed**  
19 **unanimously.**  
20

21 The meeting adjourned at 7:14p.m.  
22

23  
24 Respectfully Submitted,  
25  
26  
27

28  
29  
30 \_\_\_\_\_  
31 Planning and Zoning Commission Chair  
Chuck Apostolik

32 \_\_\_\_\_  
33 Deputy Town Clerk Mindy Andis, CMC