



**Town of New Castle**     **Planning & Code Administration**  
450 W. Main Street     **Department**  
PO Box 90     **Phone:** (970) 984-2311  
New Castle, CO 81647     **Fax:** (970) 984-2716

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(1)

**Staff Report**  
**Ken Tacker – Right-of-Way Vacation for 241 N.7<sup>th</sup> Street**  
**New Castle Town Council Meeting – July 19, 2016**

Report Date: 7/14/16

**Project Information**

<b>Name of Applicant:</b>	Ken Tacker
<b>Applicant’s Mailing Address /Phone/Email:</b>	3669 CR 100, Carbondale CO Telephone – (970) 963-3021 E-mail: kenstreeservice@hotmail.com
<b>Property Address:</b>	241 N. 7th St., New Castle, CO 81647
<b>Property Owners:</b>	Ken and Deborah Tacker
<b>Owner Mailing Address /Phone:</b>	3669 CR 100, Carbondale CO, 81602. Telephone – (970) 618-0128
<b>Municipal Code Reference</b>	None. Governed by State Statute
<b>Proposed Use:</b>	Single Family Residence
<b>Size of Site:</b>	10,242 sq. ft.
<b>Street Frontage:</b>	N. 7th St.
<b>Existing Zoning:</b>	R-1
<b>Surrounding Zoning:</b>	North – R-1, South – R-1, West – P and East R-1
<b>Off- Street Parking:</b>	Two-off street parking spaces

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**I Description of application:**

Ken Tacker has applied for a right-of-way (ROW) vacation of an unnamed street that was platted in 1893 and signed by John Ritter. “A portion of this unnamed street ROW has been in possessory use by the current and prior owners of the subject property for the purpose of an existing single family residence, yard area and parking. The existing residence was constructed in 1938 and was formerly owned by Leonard & Margie Davis.”

The

(2)

applicant is not requesting any changes to 7<sup>th</sup> St. or sidewalk. Sam Phelps dba as Survco, Inc. is the surveyor and consultant for this application and he researched and found an “Additional Plat of New Castle.” (Exhibit 3) Town Archives does not have this plat in Town records.

Mr. Phelps has submitted “Street Right of Way Vacation Exhibit” (Exhibit 4) that depicts the house as located in the old ROW (an unnamed street) found on Exhibit 3. This requested ROW vacation consists of an area of 1,889 square feet and does not have underground utilities except for water and sewer service lines. .

The purpose of the application is to clear up the title of the property so it can be sold. The new updated plat will show five (5) foot easements for two (2) areas. The first one will be south and adjacent to the Rollie Gordon Park retaining wall for the purpose of permitting Town staff to repair the wall if it ever fails and also to maintain the garden; the second easement will be adjacent to the entire length of the sidewalk for the purpose of installing future utilities, allowing for snow storage, surrounding the fire hydrant and possible widening of the sidewalk.

Included in the application is a Warranty Easement Deed for the fire hydrant easement to the Town of New Castle. It was recorded on June 15, 1995. Since it was unknown at that time that the portion of lot where the fire hydrant is located belonged to New Castle, it was unneeded and not enforceable.

The applicant is requesting a waiver of providing title insurance because it was recently conveyed as an inheritance and, thus, there is no lienholder.

Providing council approves of the ROW vacation, applicant will submit a Lot Line Adjustment application which is handled administratively.

By approving the ROW vacation, Mr. Phelps has commented the Town will see an increase in property tax revenue.

### **II Contents of Development Application:**

- 1) Development Application
- 2) Narrative from Sam Phelps representing owner
- 3) Quit claim deed showing applicant ownership - Exhibit 1
- 4) Warranty easement deed for fire hydrant easement to the Town of New Castle – Exhibit 2
- 5) Additional Plat of the Town of New Castle - Exhibit 3
- 6) Current existing conditions map depicting requested ROW vacation – Exhibit 4
- 7) Proposed Quit Claim deed to convey subject property – Exhibit 5
- 8) Property owners within 250 linear feet.

### **III Public Process:**

ROW vacations are governed by State Statute and there is no required public notice. The application does not go through Planning & Zoning as ROW vacations are heard directly by council for two readings of an ordinance.

### **IV Recommendation:**

The staff recommends that Town Council approve of the Right-of-Way Vacation with the following conditions:

1. All representations of the applicant in written and verbal presentations submitted to the Town or made at public hearings before the planning commission or Town Council shall be considered part of the application and binding on the applicant.
2. The applicant shall 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.

3) The applicant will record the Street Right-of-Way vacation plat showing two (2) five (5) foot wide easements adjacent to:

1) The south side of the Rollie Gordon Park retaining wall and;

2) The land immediately next to the sidewalk for the entire length of said sidewalk.

4) Providing council approves of the ROW vacation, the applicant will submit a lot Line Adjustment Development application vacating one lot line which is handled administratively.

**TOWN OF NEW CASTLE, COLORADO**  
**ORDINANCE NO. TC 2016-05**

AN ORDINANCE OF THE NEW CASTLE TOWN COUNCIL  
VACATING A PORTION OF THE RIGHT OF WAY FOR N. 7<sup>th</sup>  
STREET.

WHEREAS, Kenneth C. and Deborah M. Tacker (“Applicants”) are the owners of certain real property in the Town of New Castle described as Lots 1-4 and a portion of Lot 5, Block 41, of the Additional Plat of The Town of New Castle, Garfield County, Colorado, Reception No. 15279 (the “Property”); and

WHEREAS, the home located on the Property is within a right-of-way for N. 7<sup>th</sup> Street which is owned by the Town of New Castle (“Town”); and

WHEREAS, the home has been in the same location since it was constructed in 1938; and

WHEREAS, the Applicant has submitted a vacation application (“Application”) to the Town requesting that the Town vacate approximately 1,889 square feet (.043 acres) of the 7<sup>th</sup> Street right-of-way legally described on the plat attached hereto as Exhibit “A” and incorporated herein by reference to reconcile the existing use on the Property; and

WHEREAS, pursuant to C.R.S. § 43-2-303, the Town Council has the authority to vacate any roadway or part thereof located within the corporate limits of the Town; and

WHEREAS, subject to the easements retained by the Town, the Town Council finds and determines that the portion of the right-of-way requested to be vacated is not presently needed, nor will it be needed in the future, for any municipal purpose; and

WHEREAS, the Town Council desires to grant the vacation request subject to the terms and conditions of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO:

1. Recitals. The foregoing recitals are incorporated herein as findings and determinations of the New Castle Town Council.

2. Right-of-Way Vacation. The Town Council hereby approves the vacation of the portion of the 7<sup>th</sup> Street right-of-way as described and depicted on Exhibit A. This vacation shall be effective on the date this fully-executed Ordinance and Exhibit A are recorded, and title to the property vacated hereby shall vest in the Applicants. Once title to the vacated right-of-way area vests in Applicants, Applicants shall submit a lot line adjustment application to the Town for administrative review and approval.

3. Reserved Easements. Notwithstanding the vacation approved by section 2 of this Ordinance, the Town reserves for itself a five-foot wide utility and maintenance easement as depicted on Exhibit A. The Town also reserves for itself an easement for access to and maintenance of the fire hydrant located on the Property. Said fire hydrant easement shall be in the dimensions and location depicted on Exhibit A. The Applicants shall execute a quit claim deed to the Town for such easements, which shall be recorded simultaneously with this Ordinance and Exhibit A.

3. Reimbursement. The Applicant shall reimburse the Town for its legal, engineering, surveying, and other expenses incurred in relation to this Ordinance, as well as any costs or expenses that may be incurred by the Town to enforce the conditions of this Ordinance.

4. Representations. All representations of the Applicants in written and verbal presentations submitted to the Town or made at public hearings before the Town Council shall be considered part of the application and binding on the Applicants.

5. Agreement. The Applicants' signatures below shall constitute their agreement with the foregoing conditions and the findings, terms, and provisions of this Ordinance.

INTRODUCED on July 19, 2016, at which time copies of the Application 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 August 2, 2016, read by title and number, passed with amendments, if any, approved, and ordered published as required by the Charter.

TOWN OF NEW CASTLE, COLORADO

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

ATTEST:

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

AGREED:

Kenneth C. Tacker  
\_\_\_\_\_

Deborah M. Tacker  
\_\_\_\_\_



# Lot Line Adjustment Plat

of platfiled right of way adjacent to  
**Lots 1-5, Block 41**

## Additional Plat of the Town of New Castle

SITUATED IN THE NW1/4 SECTION 31, TOWNSHIP 5 SOUTH, RANGE 90 WEST OF THE 6TH P.M.,  
TOWN OF NEW CASTLE, COUNTY OF GARFIELD, STATE OF COLORADO

### Certificate of Dedication and Ownership:

Know all men by these presents that the undersigned being sole owners in fee simple of all that real property being situated in the Town of New Castle, County of Garfield, State of Colorado and being located in the SE1/4 NW1/4 of Section 31, Township 5 South, Range 90 West of the Sixth P.M., said tract of land being more particularly described as follows:

### Legal Description:

Lots 1, 2, 3, 4 and 5, Block 41, Town of New Castle according to the plat as filed for record under Reception No. 15279 of the records of Garfield County, Colorado, excepting therefrom those tracts of land described as Parcels 1 and 2 according to the document as filed for record under Reception No. 81187 of the records of said county together with that portion of said Block 41 as described by Ordinance of the Town of New Castle, Colorado, recorded under Reception No. 2016 and recorded under Reception No. 15279 and 871817 of the records of said County, said vacated portion of Seventh Street being described by metes and bounds as follows:

A tract of land being situated in the NW1/4 of Section 31, Township 5 South, Range 90 West of the 6th P.M., Town of New Castle, County of Garfield, State of Colorado, said tract of land lying Northerly of Block 41 in said town and being described by metes and bounds as follows:

Beginning at a point from whence the southeast corner of Block 16 in said town bears S.36°44'14"E. 892.74 feet; thence N.26°08'08"W. 18.23 feet; thence N.61°07'04"W. 27.81 feet; thence 42.48 feet along the arc of a curve to the right having a radius of 177.66 feet, a central angle of 13°42'04" and subtending a chord which bears N.54°06'03"W. 42.38 feet; thence S.25°28'52"E. 10.05 feet; thence S.52°40'01"W. 19.69 feet to a point on the North line of said Block 41; thence along said North line S.46°46'17"W. 64.32 feet; thence continuing along said North line S.64°46'17"W. 40.39 feet to the Point of Beginning.

Said tract of land contains a total of 59,467 sq. ft or 1.342 acres as described herein.

Bearings as recited in this description are based upon a record bearing of S.89°54'00"E. for the centerline of Main Street in said town, Monumentation found at the historic center 1/4 corner of said Section 31 is a No. 5 rebar and at the East 1/4 corner of said Section 31 is a No. 8 rebar.

That said owner has by these presents hereby dissolves the lot boundary line between Lots 1-5, Block 41 and that portion of Seventh Street, as vacated by Resolution No. \_\_\_\_\_ and filed for record under Reception No. \_\_\_\_\_ and hereby acknowledges that the above described tract of land will be one parcel of land and shall be subject to the conditions, restrictions and zoning ordinances of the Town of New Castle, Colorado.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2016.

By: \_\_\_\_\_  
Kenneth Charles Tacker

By: \_\_\_\_\_  
Deborah Marie Tacker

### Notary Statement:

The foregoing Certificate of Dedication was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2016 by Kenneth Charles Tacker and Deborah Marie Tacker as individuals.

Witness my hand and seal:

### Notary Public

My commission expires: \_\_\_\_\_

### Surveyor's Certification:

I, the undersigned, being a Licensed Professional Land Surveyor in the State of Colorado do hereby certify that this Lot Line Dissolution Plat has been prepared by SURVCO, Inc. under my direct supervision and checking and that it is true and correct to the best of my knowledge and belief.

By: Samuel D. Phelps

Colorado Licensed Professional  
Land Surveyor No. 27613  
For and on Behalf of SURVCO, Inc.  
A Colorado Corporation

Date of Certification: 26/June/2016



NOTICE: (In accordance with C.R.S. 13-60-105, et. seq.)  
No action shall be taken from the date of recording of this plat until three (3) years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of certification shown herein.

### Surveyor's Notes:

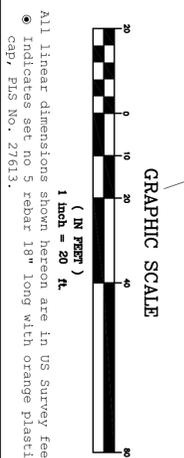
This map has been prepared pursuant to client request to demonstrate the lot line as depicted herein to be dissolved and vacated and to prepare the resulting legal description of the subject property. The map is based on a record bearing of S.89°54'00"E. for the centerline of Main Street in the Town of New Castle. Monumentation found at the centerline of Main Street in Section 31 is a No. 5 rebar and at the East 1/4 corner of Section 31 is a No. 8 rebar. Not represent a title search by this land surveyor or survey company to determine ownership or any easements of record or those that may be apparent in the field that may affect the subject property. No current title insurance commitment has been reviewed in this survey. This survey is based on the documents recorded under Reception Nos. 15279 and 871817 of the records of the Garfield County Clerk and Recorder.

Sheet	Client: Ken Tacker	Date: 14/March/2016
1 of 1	DWG No.: 16.003.002	Job No.: 16.003
	Drawn By: S. Phelps	

Line No.	Line Table	Length
L1	N26°08'08"W	18.23'
L2	N61°07'04"W	27.81'
L3	S52°40'01"W	19.69'
L4	S64°46'17"W	64.32'
L5	S64°46'17"W	40.39'

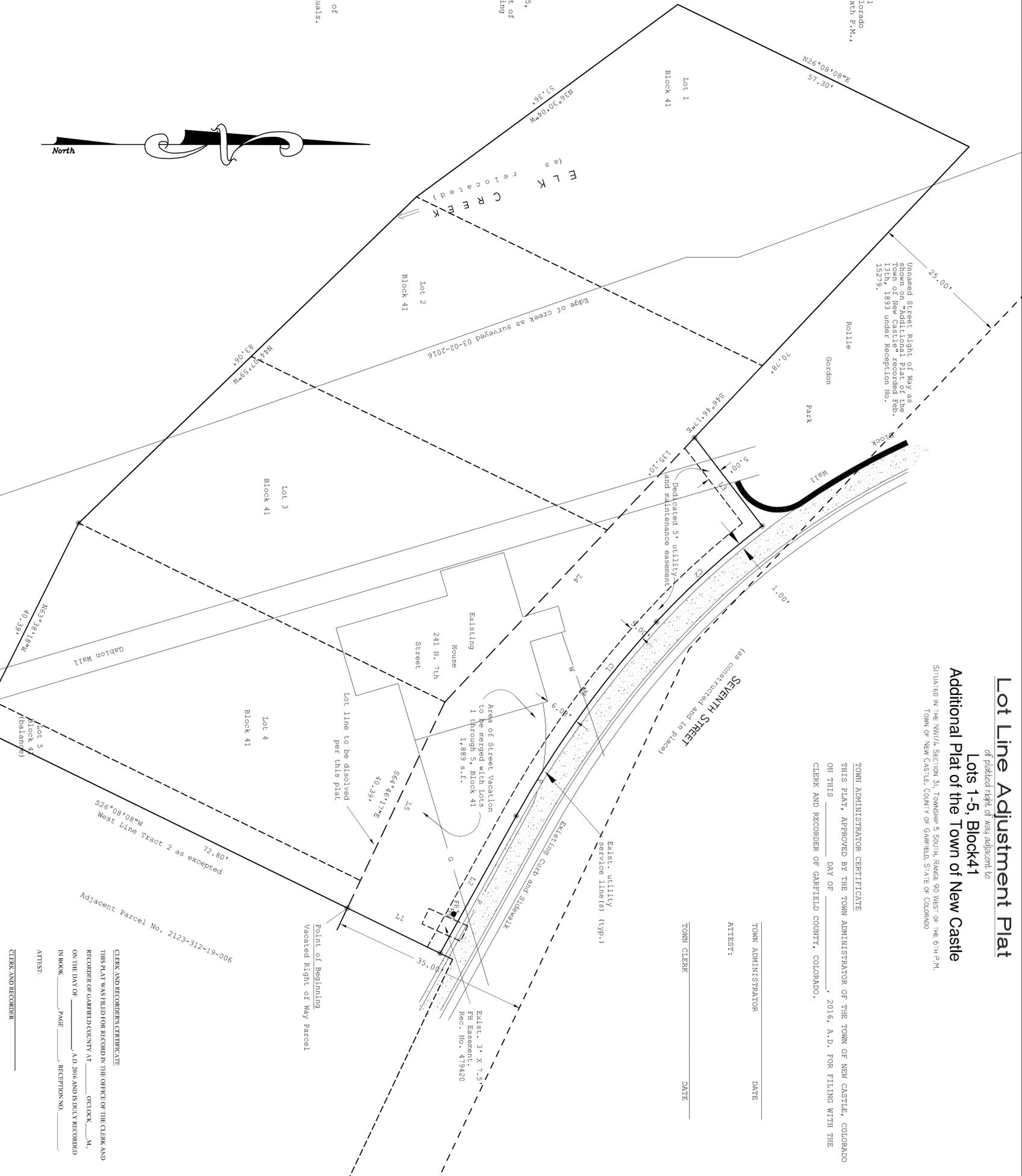
Curve No.	Atc	Length	Radius	Central Angle	Chord	Chord Bearing	Chord Distance	Tangent Distance
C1	42.48'	177.66'	13°42'04"	S54°16'03"W	42.38'	21.33'	12.68'	
C2	25.29'	153.12'	10°05'02"	S52°22'30"W	25.26'	12.68'		



GRAPHIC SCALE  
1 Inch = 20 Feet

All linear dimensions shown herein are in US Survey feet  
Indicates set no 5 rebar 18" long with orange plastic cap, PLS No. 27613.

**SURVCO, Inc.**  
RTK GPS and Conventional Land Surveying Services  
826-1/2 Grand Avenue  
Glenwood, CO 81602-2792  
Phone: (970) 945-5945 Fax: (970) 945-5946  
Email: survco@gmail.com



TOWN ADMINISTRATOR CERTIFICATE  
THIS PLAT, APPROVED BY THE TOWN ADMINISTRATOR OF THE TOWN OF NEW CASTLE, COLORADO  
ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016, A.D. FOR FILING WITH THE  
CLERK AND RECORDER OF GARFIELD COUNTY, COLORADO.

TOWN ADMINISTRATOR \_\_\_\_\_ DATE \_\_\_\_\_

ATTEST:  
TOWN CLERK \_\_\_\_\_ DATE \_\_\_\_\_

CLERK AND RECORDER CERTIFICATE  
THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE CLERK AND  
RECORDER OF GARFIELD COUNTY AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M.  
ON THE DAY OF \_\_\_\_\_ A.D. 2016 AND IS FULLY RECORDED  
IN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_, RECEPTION NO. \_\_\_\_\_

ATTN: \_\_\_\_\_  
CLERK AND RECORDER \_\_\_\_\_

QUIT CLAIM DEED

KEN TACKER  
309-3972

MAXINE MARIE DAVIS and DEBORAH MARIE TACKER, for the consideration of TEN DOLLARS and other valuable considerations, in hand paid, hereby sells and quit claims to KENNETH CHARLES TACKER and DEBORAH MARIE TACKER, as joint tenants, whose address is 3669 County Road 100, Carbondale, Colorado 81623, the following real property in Garfield County, Colorado, to-wit:

All of Grantor's right, title and interest in the following described real property:

Lots 1, 2, 3, 4 and 5, Block 41 in the Town of New Castle, excepting therefrom the following described tracts of land, to-wit:

Two tracts of land in the Town of New Castle, situated in the SE ~ NW ~ of Section 31, Township 5 south, Range 90 West of the Sixth Principal Meridian, lying Southerly of the Southwesterly right-of-way line of a road known as the Buford Road as constructed and in place, said tracts of land being described as follows:

Tract No.1

Beginning at a point on the Southwesterly right-of-way line of said road whence the Survey Monument at the Intersection of Sixth Street and Main Street in the Town of New Castle bears: S. 47°14'08" E. 985.14 feet from said point of beginning the Southeast Comer of Block 16 in said Town of New Castle bears: S. 33°20'08" E. 752.10 feet; thence S. 65°43'00" E. 113.20 feet along the Southwesterly right-of-way line of said road; thence S. 44°43'00" W. 72.00 feet along a fence as constructed and in place; thence S. 82°11'00" W. 60.18 feet; thence N. 74°21'00" W. 37.25 feet; thence N. 24°08'56" E. along a fence as constructed and in place, 105.04 feet to a point on the Southwesterly right-of-way line of said road, the point of beginning.

Tract No.2

Beginning at a point on the Southwesterly right-of-way line of said road whence the Survey Monument at the Intersection of Sixth Street and Main Street in the Town of New Castle bears: S. 47°14'08" E. 985.14 feet from said point of beginning the Southeast Comer of Block 16 in said Town of New Castle bears: S. 33°20'08" E. 752.10 feet; thence S. 24°08'56" W. 105.04 feet along a fence as constructed and in place; thence N. 74°21'00" W. 52.00 feet; thence N. 34°48'00" E. 5.00 feet; thence N. 55°12'00" W. 89.12 feet; thence N. 25° 11'25" E. along a fence as constructed and in place, 91.68 feet to a point on the Southwesterly right-of-way line of said road; thence S. 65°43'00" E. along the Southwesterly right-of-way line of said road, 136.41 feet to the point of beginning.

RECEIVED

JUN 27 2016

TOWN OF  
NEW CASTLE, CO  
BUILDING DEPARTMENT

And such is conveyed with all its appurtenances.

Signed this 24 day of December, 2015

Maxine Marie Davis  
Maxine Marie Davis

Deborah Marie Tacker  
Deborah Marie Tacker

STATE OF COLORADO )

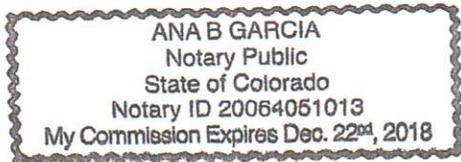
) ss.

COUNTY OF GARFIELD )

The foregoing instrument was acknowledged before me this 24 day of December 2015, by Maxine Marie Davis and Deborah Marie Tacker.

My commission expires: 12/22/18

Witness my hand and official seal.



Ana B Garcia  
Notary Public

Adjoining property owners within 250 feet

1. 2123-312-00-031, 2123-312-30-021, 2123-311-00-001  
Town of New Castle  
PO Box 90  
New Castle, CO. 81647
2. 2123-312-30-018  
Thomas R. Elder  
Mary L. Johnson  
247 N. 7th Street  
New Castle, CO. 81647
3. 2123-312-30-019  
Robert Joseph Forgacs  
245 N. 7<sup>th</sup> Street  
New Castle, CO. 81647
4. 2123-312-30-020  
3 Amigos 3, LLC  
PO Box 129  
Woody Creek, CO. 81656
5. 2123-312-30-024  
Creek Hollow Homeowners' Assoc., Inc.  
3648 Co. Rd. No. 117  
Glenwood Springs, CO. 81601
6. 2123-312-00-019  
Garfield County School District RE-2  
839 Whiteriver Ave.  
Rifle, CO. 81650
7. 2123-312-26-007  
Victoria Palmer  
228 N. 7<sup>th</sup> Street  
New castle, CO. 81647
8. 2123-312-26-008  
Brandon A. Beaudette  
230 N. 7<sup>th</sup> Street  
New Castle, CO. 81647
9. 2123-312-26-005  
Bryan K. and Sherry L. Whitaker  
621 Elk Run Rd.  
New Castle, CO. 81647
10. 2123-312-00-035 and 2123-312-00-022  
Storey Enterprises, Inc.  
PO Box 2223  
Grand Junction, CO. 81502
11. 2123-312-26-004  
Perry A. Sweeney

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TOWN OF  
NEW CASTLE, CO  
ENGINEERING DEPARTMENT

- PO Box 531  
New Castle, CO. 81647
12. 2123-312-26-003  
Terrell J. Matson  
Elizabeth Velasco  
PO Box 1544  
Avon, CO. 81620
13. 2123-312-26-002  
Laurie Lynn Sutliff  
PO Box 516  
New Castle, CO. 81647
14. 2123-312-00-011  
Earl L. and Roclynn L. Simms  
5450 Co. Rd. No. 245  
New Castle, CO. 81647
15. 2123-312-19-007  
David D. Wood  
PO Box 408  
New Castle, CO. 81647
16. 2123-312-19-005  
Stephen L. and Sylvia A. White  
PO Box 643  
Glenwood Springs, CO. 81602
17. 2123-312-19-006  
Joanie W. Haggerty  
Merrick E. Shattuck  
PO Box 1693  
Basalt, CO. 81621