

Rocky Mountain Institute Innovation Center at 22830 Two Rivers Road, Basalt

TOWN OF BASALT MEETINGS Planning and Zoning Commission Meeting Tuesday August 16, 2016

5:45 pm *Light Dinner*

6:00 **Call to Order**

Approval of Minutes

- July 19, 2016
- August 2, 2016

Consent Agenda

Public Hearing on the Application submitted by “The Arts Campus at Willits” (TACAW) for Sketch Site Plan Review for the proposed Arts Campus at Willits. The proposal sets the site plan limitations at the sketch plan level for construction of the Arts Campus at Willits in two (2) phases.

Recommended Action: *Continue to September 20, 2016 without discussion*

6:05 **Public Hearing on Stott’s Mill Application** the purpose of considering an Application submitted by MSP1 LLC for: Rezoning; Reinstatement of the majority of the Single-family residential portion of the Stott’s Mill PUD Development approved pursuant to Ordinance No. 18, Series of 2009; and R-4 MD Sketch Site Plan Review for the Multi-Family development portion of the project. The Application includes a proposal to be annexed into the Town. Overall, the proposal includes, but is not limited to: 156 residential dwelling units, approximately 4.5 acres of parks, and associated necessary infrastructure improvements.

Recommended Action: *Staff and Applicant presentation; Public Hearing; P&Z discussion; If the P&Z is comfortable motion to recommend approval per Staff Recommendation*

7:20 **Consideration of Amendments to the Municipal Code, Chapter 16, Zoning and Chapter 5, Business License and Regulation.** The Amendments include but are not limited to: changes to allow medical marijuana centers and retail marijuana stores in additional zoning districts and changing other restrictions on locations and number of facilities.

Recommended Action: *Staff presentation; P&Z discussion; If the P&Z is comfortable motion to recommend approval*

7:40 Commissioner and Staff Updates

7:50 Adjourn

Items on the agenda are approximate and intended as a guide for the Commission. Times are subject to change, as is the order of the agenda. For deadlines and information required to schedule an item on the agenda, please contact Basalt Town Hall at 927-4701.

**TOWN OF BASALT
PLANNING AND ZONING COMMISSION
PUBLIC HEARING and REGULAR MEETING
JULY 19, 2016**

CALL TO ORDER

At 6:02 p.m. the Planning and Zoning Commission was called to order. Commissioners answering roll call were Dylan Johns, Gino Rossetti, Patrick McAllister, Eric Vozick and Alternate, Tracy Bennett. Staff present was Basalt Town Planner, Susan Philp; Assistant Planning Director, James Lindt; and Recorder, Denise Tomaskovic.

APPROVAL

Minutes of July 5, 2016

M/S ROSSETTI AND BENNETT TO APPROVE THE MINUTES OF JULY 5, 2016 AS READ. THE MOTION CARRIED BY A VOTE OF 5-0.

AGENDA ITEMS

Public hearing on Mark and Kris Elice Application: for the purpose of considering an Application submitted by Mark and Kris Elice for Rezoning, Minor Subdivision and R-4 MD Sketch Plan Review to create three lots from the 12,285 square foot property at 150 W. Homestead Drive. Specifically, the Applicant is proposing that the parcel be rezoned from the R-3 TN Zone District to the R-4 MD Zone District and be subdivided for development pursuant to the requirements of the R-4 MD Zone District.

Lindt noted that the Commissioners had visited the site previously and then proceeded to review the application, referring to Staff Memo dated July 19, 2016, a posted site plan, and architectural interpretation of the potential site layout.

Staff had posted a list of discussion items as follow:

- consistency with neighborhood character
- compliance with R-4 MD Zone District
- vehicular access and parking
- affordable housing
- non-conforming sheds
- construction management plan

The applicants, Mark and Kris Elice, were present. Lindt asked if they had any comments.

Mark Elice said that he is not comfortable with the requirement for two parking spaces on the existing residential lot; he thinks it should occur on the street. He added that he didn't have a problem with the requirement to remove the sheds or portions thereof. However, this means an artist studio probably will have to be eliminated. Originally, he had proposed that the lot line split be equal but he understands that due to building and zoning code conflicts they will have to be different widths.

Kris Elice said that the current residence on Lot A has been rented by the same tenants for five years. They have a beautiful garden where the parking spots are proposed to be located and it would be a shame to replace the gardens with parking spots. Mark added that the front yard functions as an outdoor living space in the summer. Putting the parking spots on the property will require adding about two feet of fill which will make the house seem like it's in a hole.

Commissioner McAllister asked which parking spots were in question and the proposed location of the required parking. Philp explained that per the Town code required parking cannot be located on the street. Guest and commercial parking can be located on the street, but not residential parking. McAllister then asked where redevelopment on the Lot would occur if it ever happens. Lindt replied that it would be generally in the same spot but would have to meet the R-4 MD setback.

Chair Johns asked if the property line adjustment between Lots A & C creates any sort of issue with setbacks and overall lot square footage. Lindt said the Lot sizes still meet the [zoning] minimum requirements and Mark Elice added that even with the property line adjustment, Lot C can still accommodate an ADU.

Public Hearing

The public hearing was opened at 6:17 p.m.

There were no comments from the public so the public hearing was closed at 6:17 p.m.

Commission Questions/Discussion

Chair Johns noted that the proposed parking configuration essentially sterilizes Lot A from having additional parking on the street. Lindt agreed, adding that the off-street parking requirement is procedural.

Alternate Bennett asked if there would be any other possible location for the parking. Lindt said there are provisions for parking easements on adjacent lots that are owned by the same person. It was noted that they could look at the possibility.

M/S VOZICK AND ROSSETTI TO APPROVE THIS AGENDA ITEM PER CONDITIONS IN STAFF MEMO DATED JULY 19, 2016. THE MOTION CARRIED BY A VOTE OF 5-0.

Public Hearing on Stott's Mill Application for the purpose of considering an Application submitted by MSP1 LLC for: Rezoning; Reinstatement of the majority of the Single-family residential portion of the Stott's Mill PUD Development approved pursuant to Ordinance No. 18, Series of 2009; and R-4 MD Sketch Site Plan Review for the Multi-Family development portion of the project. The Application includes a proposal to be annexed into the Town. Overall, the proposal includes, but is not limited to: 156 residential dwelling units, approximately 4.5 acres of parks, and associated necessary infrastructure improvements.

Lindt corrected a typo on the first page of the Staff Memo dated 7/19/16, stating that it should read there are 96 multi-family units and 60 single-family lots being proposed. He added that this is a continued public hearing on this agenda item.

The applicant, Briston Peterson, was present along with land use planner Mark Chain and engineer, Yancy Nichol.

Lindt explained the revisions to the proposal that were made in response to input received from the Child Care Coalition and Commissioner comments made at the previous P&Z meeting. He referred to Staff Memo dated July 19, 2016 which contains the revisions and information about the traffic study, noting that the estimated increase in traffic would require an additional CDOT access permit.

The applicant provided a proposed site plan, architectural renderings of the multi-family units as seen from Southside Drive. The Town's consulting engineers had provided several options for traffic

mitigation on the South Side, ranging from a very costly vehicular underpass connecting Basalt Avenue with Midland Avenue beneath Highway 82 to a mini-roundabout at the Cody Lane and Basalt Avenue intersection along with some laneage changes.

A list of posted discussion items included:

- Daycare – revised proposal/Childcare Coalition recommendation
- Traffic
- Southside Drive cross-section
- Parks and open space program
- Allison Lane and Southside Drive traffic calming
- Density

For purposes of comparison, the adjacent Southside Subdivision has 101 units on 21.5 acres (4.7 units/acre), and the Stott's Mill project proposal is for 156 units on 18 acres (8.5 units/acre).

Referring to the posted list of discussion items, Peterson said that, in his experience, this isn't a dense project; that would have 12-15 units/acre. If you want affordability, you have to have density. All of the discussion points affect the affordability of the proposed project. He employs 16 people, including those with young families who can't afford to live in Basalt due to high real estate costs. He asked the Commissioners to focus on affordability and attainability, not on other issues.

Chain began by addressing the daycare issue. The applicant has suggested dedicating Lot 38 for a slightly smaller daycare facility than recommended by the Childcare Coalition with the option for the space to revert back to the developer if a daycare facility isn't successful. They are not in favor of committing the ground floor of one of the multi-family buildings as a daycare facility as recommended by the Childcare Coalition. It's been tried and hasn't worked in Carbondale.

Regarding Southside Drive, the applicant believes that there needs to be parking on one side of the street and it's the Town's right-of-way so the applicant will go along with the proposed cross-section.

Chain said that what they've heard from people in the Southside neighborhood is that they don't want any more traffic coming through there so the applicant agrees that the Allison Drive intersection could be removed [as proposed by Staff] to appease the South Side neighborhood.

The applicant still prefers that South Park function more as a passive/flex park but they have re-engaged the tennis center group. The applicant still doesn't think that South Park is the best location for an indoor tennis facility but they've counter-proposed a somewhat smaller facility with three courts located closer to the eastern side of the park. They would agree to give the tennis group two years to raise the funds to build the indoor courts and utilities would be extended to the facility parcel.

Chain said that the traffic study report was a little hard to digest in only a day or so. He then turned over the traffic part of the discussion to Yancy Nichol. Nichol said that he's reviewed the traffic study and has some questions which he hasn't had a chance to research yet. However, he does think the number of cars is being over-projected. He also thinks that the pedestrian underpass will help increase the level of service at the Basalt Ave./Hwy 82 intersection and relieve the congestion currently experienced by waiting for pedestrians to cross the highway. Nichol said he would be surprised if the total build-out of Southside happens within the next 20 years. He also questioned the projected million dollar cost of the mini-roundabout because he is involved with the building of a mini-roundabout for a similar situation in Snowmass for about \$350K. Nichol thought it only fair to know in advance how Peterson's traffic mitigation fees would be committed and used. He said that he disagreed with the

need for another CDOT access permit as his numbers show 16%, not 20% as stated in the traffic study. Also, it would be helpful know how the pedestrian underpass is working before trying to get the access permit, which would be the Town's responsibility, not the applicant's. In his opinion, Nichol said that the permit should have been issued with the recently built park-n-ride because that location is creating a lot of traffic problems on Cody Lane. If the Town really wants to reduce traffic on Southside then, he suggested, don't add a daycare and indoor tennis center to the mix. Nichol concluded his comments by asking (rhetorically) who would offset those impacts.

Peterson noted that there were no conclusions or recommendations in the traffic study. His project proposal is trying to help solve the housing affordability issue, not the lack of childcare issue. It seems like a band aid fix for a regional need. Also, if there's a possibility that traffic numbers could be a concern, then adding a daycare and a tennis facility needs to be considered as to whether or not this is the appropriate location for them. Nichol said that he needs more time to go through the traffic study. Lindt suggested having SGM have further discussions with Nichol about the traffic study.

Chain then activated an animated presentation of a drive-through in the proposed project. The purpose was to illustrate the grid pattern and the streetscape along Southside Drive. Peterson explained how the multi-family buildings are sited and the different parking options that will be incorporated into the project. There will be some garages with storage available for some of the apartment residents. He added that he owns a 58-unit apartment building in Carbondale with some tenants who have lived there for seven to ten years. That apartment manager receives four to six calls per day from people looking for housing. There were numerous PowerPoint slides which Peterson elaborated upon further.

Commissioner Questions

Commissioner Rossetti asked about the location of the proposed vehicular underpass. Lindt explained that it would connect Midland Avenue and Southside Drive. Rossetti commended the applicant and Staff on all the work that has been done. He asked why the applicant had suggested that the tennis facility be reduced from four to three courts. Peterson replied that he was concerned about a possible scale issue and also that the idea of an indoor tennis facility wouldn't match with an affordable housing neighborhood. Rossetti then asked for more clarification on the overall parking situation and Peterson complied with further explanations of layout and accessibility.

Commissioner Vozick had some bigger-picture questions. Regarding the traffic study estimates of 200 new units, is that accurate? Lindt said that reflects the Master Plan buildout numbers. Vozick said he is concerned because, as a Southside resident, there are already traffic issues experienced every day and the traffic study doesn't provide any solutions. Lindt said that Staff will try to get the traffic engineer to attend the next meeting when the traffic study is discussed. Vozick then asked if it is possible to address this proposed affordable housing project within the larger context of other ongoing and proposed AH proposals in Basalt. He would like to know what AH proposals are actively being considered, where they're located and how many and what types of units. Also, how can we get another restaurant on the South Side to alleviate the traffic leaving there (mostly from the high school) beginning at 11:15 a.m. every school day. It's chaotic.

Commissioner Rossetti asked Staff about the outdoor play area location for the childcare facility. Lindt and Peterson explained that it would be possible to use the adjacent lot for the outdoor play area with Peterson expressing his desire to have the lot revert back to a developable lot if the daycare facility ever goes away. He added that the plan would be to lease the ground floor area and adjacent lot to a childcare provider and have the AH apartment complex's manager live in a residential unit on the second floor. Rossetti clarified with Peterson that the [north/south] path is a walkway and bike path.

Alternate Bennett had a question about the possible mini-roundabout. Lindt said this would be a good question for the Town's traffic engineer, whom Staff will ask to attend the next meeting in order to provide more information about traffic mitigation. Also, Bennett asked, is the indoor tennis facility not an option at Crown Mountain Park anymore? Ted Bristol, CEO of Advantage-In Indoor Tennis Board of Directors, replied that the organization will conduct a feasibility study to cover four of the existing outdoor courts at Crown Mountain. Both Stott's Mill and Crown Mountain Park are under consideration.

Commissioner McAllister said he could understand the applicant's view on providing a daycare facility. He wanted to know if Staff thinks that [Stott's Mill] is the best location for a daycare facility.

Chair Johns said that he, also, was wondering why the mini-roundabout is considered a viable traffic mitigation option. He asked for more clarification about the Southside Drive cross-section drawing for making improvements to that street. Philp explained that with Pitkin County providing funding for the pedestrian underpass the County wanted to make sure that the connection to the Rio Grande Trail was strengthened. She explained how the cross-section provides an opportunity to keep the bicyclists and vehicular traffic separated. The plan will be implemented incrementally and this portion fits in with the larger plan. Lindt added that the good thing about Stott's Mill is that it fronts a long section of Southside Drive so it's easier to implement a nice streetscape. Johns then confirmed that the upper limit for density is 11.9 units per acre in the Master Plan, not the actual zoning. He asked if parking in the multi-family portion is covered or not. Peterson replied that some spaces will be covered/enclosed to provide parking and storage. Johns asked if there are any fences proposed. Peterson said that the last application allowed low fences, e.g., 3.5 feet tall in single family neighborhood. Also, there will be wildlife friendly fences to keep kids out of adjacent property and fences to keep them from getting into the irrigation ditches.

Commissioner Rossetti asked if snow removal has been considered in the multi-family section. Peterson and Chair said that all snow removal and snow storage, along with garbage pickup, etc. have been planned for, although some details may change. All of the apartments will be rental units.

Public Hearing

Chair Johns opened the public hearing at 7:33 p.m.

Renee Fleisher said that she has lived in Southside for 14 years. She asked for clarification about the covered parking and wondered if the proposal is the same as what is in place at the townhouses on the north side of the Southside neighborhood? She said that she likes the idea of including the AH component. She thinks that a daycare facility is necessary for inclusion in the plan. The neighborhood needs more active park space so the indoor tennis facility would be a good addition. There are already passive parks in Southside. She added that getting in and out of Southside is already problematic. The trouble is with the intersection design; we need a dedicated right-turn lane to get onto Hwy 82. Also, the traffic signal needs to be adjusted to let drivers turn left onto Hwy 82 on an as-needed basis in the evenings.

Diana Elliott, Advantage Indoor Tennis board member, thanked the applicant for being receptive to the indoor tennis facility as well as responsive to input from the community. At most there would be 16 cars at the facility if four courts are full, 12 if three courts are full. The tennis facility would not be an exclusive thing – it'd be open to the public. The tennis courts could also be used by the schools for a tennis program. The School District is excited about being able to offer expanded sports programming with the addition of high school tennis teams and having the indoor courts located so close to the high school would be a bonus. The Basalt Recreation Department office and storage could be located in the facility. She invited people to feel free to email or call her with questions.

Ted Bristol, Crown Mountain Board, said that as we speak, there are 90 people playing league tennis in the valley this evening. This could be a great revenue-generator for the Town.

Linda Hoffman and her son, Connor, expressed support for the proposed indoor tennis facility.

Renee Fleisher spoke up again to say that tennis is a growing sport and there are very few affordable places to play in the valley. This would provide a great opportunity to make the sport more accessible.

The public comment period closed at 7:44 p.m.

Chair Johns noted for the record that five letters of support had been submitted for the indoor tennis facility. He then asked the Applicant/Staff to answer Fleisher's question about the multi-family parking situation. Philp said that not all units will have access to enclosed/covered parking. Peterson said that the leases won't allow storage on porches or decks.

Commissioner Discussion

Philp explained the Child Care Coalition's (CCC) thoughts behind their support of a childcare facility located at Stott's Mill. She said that affordable childcare is a huge need and is considered a workforce issue. This location could serve Stott's Mill residents as well as teachers on their way to work at the high school. The CCC is more interested in getting a core and shell built, not fees-in-lieu. Lindt said that a recent study identified one pre-school age child/every three housing units built. Lindt reviewed the four childcare options presented in the Staff Memo.

Alternate Bennett said she considers having a daycare facility an amenity to the Stott's Mill project. She supported the suggestion of having the first floor as a daycare and a second floor residence for an apartment manager. She thought 4,000 sq. ft. would be an okay size for the daycare. Bennett said she would support a reversion of the property back to the developer if no daycare provider is found.

Commissioner McAllister said that what works for the developer needs to be taken into consideration. He also supported a property reversion to the developer if it doesn't work out. He hopes that the Town can figure out some options to get a provider in place.

Commissioner Rossetti suggested that we should rely on experts to determine the size of the daycare.

Alternate Bennett asked why more childcare centers haven't been built in the valley. Staff replied that it's not a profitable endeavor, it's heavily regulated, and land is not available. Operators are looking for space. Staff will get feedback from CCC members on this proposal.

Commissioner Vozick wondered if there is a potential safety issue if daycare students have to cross a street to get to their play area and the open space.

Commissioner Rossetti agreed that having a childcare facility in Stott's Mill could be a marketing tool.

Chain said that there is sometimes neighborhood opposition to daycare facilities. It's a different animal to get something approved after the neighborhood is built vs. having one built as part of the project.

Peterson said he's an advocate for daycare but let's find the right solution. A better solution would be to put a regional daycare across Southside on a parcel owned by the Aspen Ski Company. It could ve

a partnership between RE-1, the Town, and probably others. However, it's very important to him to have the property reverter option.

Chair Johns said he was not comfortable with the tight approval timeframe that has been proposed. If we need more time, let's get the appropriate information in hand and have the necessary conversations before holding a public hearing. Solutions need to work for everybody. It's the same thing with the traffic situation. We need more information and it's not the P&Z's place to figure out these solutions.

Commissioner Vozick agreed with Johns. Think outside the box for solutions.

Chair Johns suggested the possibility of having a cross-town shuttle to reduce traffic.

Alternate Bennett noted that the vehicular underpass has been discussed since the 1990s.

Commissioner Rossetti said that this is a refreshing proposal and there has been lots of good discussion about it. He really wants to see the project happen; the sooner, the better.

Chair Johns said he does not mean to imply that the project isn't needed. However, we need to get the plan figured out.

Commissioner Vozick wondered how to mesh together the proposed Habitat project behind the high school, Stott's Mill, and the Ski Co. parcel in a way that makes sense. Nobody's arguing that the project isn't needed but the location and potential issues can't be ignored. It'd be great to come up with an out-of-the-box solution. He also asked what's going on with the other proposed affordable housing projects. Philp replied that Real America's interview with CHAFA is in the beginning of August and we will find out shortly thereafter if the developer will receive tax credits, enabling construction to begin.

Peterson agreed that everyone seems to be on the same page in wanting this project to happen and he outlined his solution – they will build a 3000 to 4000 sq. ft. daycare facility and offer the adjacent lot for outdoor play area space with the condition of having a reverter clause for both those lots and, if necessary, they will contribute their proportional share to a future mini-roundabout.

Regarding the Southside Drive cross-section, nobody had any problems with what has been proposed.

Chair Johns clarified with Staff that the Parks and Open Space item concerned whether or not the Commission is okay with Staff's condition for the reduced size (three courts) and two years to get the funding to build the center after Stott's Mill receives final approval. If the group cannot get the funding then the applicant, at the discretion of the Town Manager, is required to build a more active park that would include outdoor tennis courts and basketball courts.

Alternate Bennett asked if two years was okay. Elliott said that the tennis group agrees to that. She added that while having three courts would be okay, having four would be more financially lucrative. The projected cost of completion is \$1.3M and the group has \$500K so far. If this proposal is approved then the tennis group wouldn't pursue covering the outdoor tennis courts at Crown Mountain. Peterson suggested that combining a childcare facility with the indoor tennis courts could be a good fit and a better land use model.

Chair Johns said it sounds like there needs to be more discussion between Staff and the applicant regarding these ideas. The Commissioners weren't adverse to having four tennis courts if that made more sense in optimizing the facility's use and economic viability.

Staff further explained the Allison Lane and Southside Drive Traffic Calming item. Commissioner Vozick said he was okay with the suggestion in Staff's Memo. Peterson said they were fine with the condition, either way, and it's up to the Town to determine the best way to address the safety issue. Nichol said that if the connection is kept as emergency only access then it could be downsized. Lindt noted that this connection needs to be able to function as an emergency route for traffic also. Nichol said that the type of use will determine the extent of the infrastructure work needed for the ditch.

Regarding density, Lindt said that Staff has provided the comparison between Southside and Stott's Mill. After viewing the flyover presentation, Staff would like to take another look at the scale and massing before making a final recommendation. The traffic piece is related to density and if we can get the traffic engineer to the next meeting, the issue can be delved into further at that time.

Peterson reiterated that affordability requires density. If they had to go back to the original approvals for 110 units that would probably cause him to walk away. He is not trying to strong-arm anybody – this is just an economic reality - 156 units are necessary and it fits into the zoning, even if it's on the high side. They are not trying to push the envelope, just laying their cards on the table.

Alternate Bennett we said we wanted density here so we need to work with it.

Chair Johns asked if August 2nd is still a good date for continuation. Philp suggested keeping that date as a place-holder and it can be moved to a later date if necessary.

M/S VOZICK AND ROSSETTI TO CONTINUE THIS APPLICATION TO AUGUST 2, 2016. THE MOTION CARRIED BY A VOTE OF 5-0.

PLANNER UPDATES

Staff reported that the Planning Department is extremely busy. They are working with the Town Council and POST on the feasibility of an outright Pan and Fork parcel purchase. The Department has also been directed to consider how to adjust zoning districts to allow expansion of the locations where retail marijuana stores can be located. The other application on the burner is TACAW, which is scheduled for August 2nd, too. Applications that were reviewed earlier by the P&Z are now moving on to the Town Council.

Philp reviewed other planning department activities. The traffic circulation plan for the schools' remodel and parking lot improvements is coming along. WE-cycle will be submitting an update on the success of the program. Also, there are potentially more ADU applications.

ADJOURNMENT

M/S BENNETT AND ROSSETTI TO ADJOURN. THE MOTION CARRIED BY A VOTE OF 5-0.

The P&Z adjourned at 8:32 p.m.

**TOWN OF BASALT
PLANNING AND ZONING COMMISSION**

By: _____
Dylan Johns, Chair

Attest: _____
Denise Tomaskovic, Recorder

DRAFT

**TOWN OF BASALT
PLANNING AND ZONING COMMISSION
PUBLIC HEARING
AUGUST 2, 2016**

CALL TO ORDER

At 5:00 p.m. Basalt Staff James Lindt, Assistant Planning Director, and Denise Tomaskovic, Planning Technician, were present.

CONTINUATIONS

Public Hearing on the application submitted by “The Arts Campus at Willits” (TACAW) for Sketch Site Plan Review for the proposed Arts Campus at Willits. The proposal sets the site plan limitations at the sketch plan level for construction of the Arts Campus at Willits in two (2) phases.

Public Hearing on Stott’s Mill Application for the purpose of considering an Application submitted by MSP1 LLC for: Rezoning; Reinstatement of the majority of the Single-family residential portion of the Stott’s Mill PUD Development approved pursuant to Ordinance No. 18, Series of 2009; and R-4 MD Sketch Site Plan Review for the Multi-Family development portion of the project. The Application includes a proposal to be annexed into the Town. Overall, the proposal includes, but is not limited to: 156 residential dwelling units, approximately 4.5 acres of parks, and associated necessary infrastructure improvements.

There were no members of the Planning and Zoning Commission present. There was no public in attendance. Lindt stated that there was no quorum present and continued the public hearings to August 16, 2016.

ADJOURNMENT

The Meeting was adjourned at 5:03 p.m.

**TOWN OF BASALT
PLANNING AND ZONING COMMISSION**

By: _____
James Lindt, Assistant Planning Director

Attest: _____
Denise Tomaskovic, Recorder

MEMORANDUM

To: Chairman Johns and Basalt Planning and Zoning Commission

Thru: Susan Philp, AICP Planning Director

From: James Lindt, AICP Assistant Planning Director

Date: August 16, 2016

RE: Continued Public Hearing- Stott's Mill PUD Reinstatement for Single-Family Section and Sketch Site Plan Review and Associated Reviews for Multi-Family Residential Section

I. Purpose:

MSP1 LLC. ("Applicant") is requesting approval for: 1) Reinstatement of the 2009 Stott's Mill PUD approvals for the majority of the single-family section of the proposed development, and 2) Sketch Site Plan Review for the multi-family section of the proposed development to construct 156 dwelling units on the Stott's Mill Property.

II. Background:

The 18-acre property subject to the Application is currently vacant with the exception of a couple of agricultural buildings and is located on the east side of Southside Drive adjacent to the Rio Grande Trail. The property is currently located in unincorporated Pitkin County. The Applicant has applied to annex the property into the Town and to reinstate the 2009 PUD approvals for the majority of the single-family family residential portion of the development and a sketch site plan review through the proposed R-4 MD Zone District for the multi-family portion of the development adjacent to Southside Drive. The property is located in the Town's Urban Growth Boundary (UGB) and is designated as Medium Density Residential (MDR) and Public Open Space (OS) on the Future Land Use Map (FLUM) that is included in the 2007 Basalt Master Plan.

The Applicant received annexation and PUD approvals in 2009 for 110 dwelling units, a daycare core and shell, a south and north park, and associated infrastructure pursuant to Ordinance No. 18, Series of 2009. The new proposal includes 156 dwelling units, sixty (60) of which are proposed as single-family dwellings and ninety-six (96) of which are proposed as multi-family dwelling units. Additionally, the Applicant has proposed two (2) parks in the same configuration as the parks that were included in the 2009 approvals. Site plan and elevation drawings were attached in the July 5th packet.

III. Review Process:

The Applicant has received approval for annexation eligibility pursuant to Resolution No. 14, Series of 2016. The Town's policy is not to annex a property until a development proposal is approved. The P&Z makes a recommendation to the Town Council on the proposed PUD reinstatement on the single-family portion of the development, and on the R-4 MD Sketch Site Plan Review.

IV. July 19, 2016 P&Z Meeting and Additional Information:

At the July 19th meeting, Staff and the Applicant presented the status of discussion on the significant discussion items. The Applicant also presented a sketch-up model that they prepared to give a sense of the neighborhood that would be created with Stott's Mill. Public comments were also considered and the P&Z provided comments on many of the main discussion items. Staff provides a summary of P&Z's comments on the main discussion items and a summary of the negotiations that have transpired since the last meeting below.

Daycare: The P&Z expressed a desire for the Applicant to provide an on-site daycare core and shell space. The Applicant proposed a site layout concept for an approximately 2,500 square foot daycare space with the necessary playground space on Lots 37 and 38, of Block 4 (see attached site concept plan from Applicant). Staff worked with members of the Childcare Coalition, and a local architect, Dustin Anderson of Peak Architecture, to take the Applicant's concept plan to the next level to test whether the site will be feasible for a 4-classroom daycare. Anderson reworked the site concept plan (Anderson's version is attached) provided by the Applicant to make it work as a 4-classroom facility on the first floor of the building to be built on Lots 37 and 38.

Staff has included a draft condition requiring the following:

- 1) The Applicant shall build the 4,000 square foot core and shell daycare space on the first floor of the building on Lots 37 and 38, of Block 4, with the associated fenced playground space as generally shown on Anderson's site concept plan of August 4, 2016; and,
- 2) The Applicant shall lease the space to a daycare based on the following:
 - a. The daycare use will be the priority use for the facility; and,
 - b. The Applicant will lease the space and associated playground to a daycare provider at the market lease rate (considering the lease rates for Growing Years, Blue Lake, Learning Curve, and Honey Tree) for mid-valley daycare space as determined by the Town Manager; and,

- c. If a licensed and qualified daycare provider cannot be found to lease the space at these terms and the building sits vacant for a period of one year or greater, the Town Council may choose to put another public use in the space for the lease rates described above. If the Council chooses not to put another public use in the space based on those terms, the Applicant may convert the space into two additional free-market dwelling units. (There would then be 3 dwelling units on the 2 lots).

South Park and the Tennis Facility: The P&Z expressed that they thought the concept of allowing for the Tennis Group to continue to develop its funding for a period of two (2) years after the final approval is granted for Stott's Mill and allowing them to build the scaled down three (3) tennis court facility if they are able to compile the necessary funding was acceptable. Additionally, the P&Z agreed with the concept of requiring the Applicant to build the 2009 approved concept for South Park in the instance that the Tennis Group is not able to compile the necessary funds to construct the tennis center within two (2) years of the final approval. The 2009 South Park concept (attached) is an active park that includes outdoor tennis and basketball courts. The draft conditions reinforce the scenario described herein. It should be noted that the potential for incorporating the daycare into the tennis center was discussed at a staff level and Staff felt that it was appropriate to keep the daycare and park dedication obligations and requirements separate.

Traffic Study and Traffic Mitigation: Staff introduced the traffic study prepared by SGM on July 19th and the Applicant's engineer, Sopris Engineering provided some questions about the Study. Since the last meeting, representatives from SGM and Sopris Engineering as well as Staff and the Applicant have had considerable discussion about the traffic topic. There was basic agreement on the following:

- 1) Stott's Mill would require a CDOT access permit; and,
- 2) The Cody Lane Mini-Roundabout and lane age changes identified in the Traffic Study would likely cost at most \$400,000 and \$500,000 to complete based on costs for a mini-roundabout project that is currently being done in Snowmass Village and likely would be significantly less.

Staff and the Applicant worked through a concept where the Applicant would have to put up financial security for their portion of the construction costs (assuming a conservative \$500,000 cost) for the mini-roundabout totaling about \$165,000 at the time of the initial platting of the first phase of the development and then they could build up to sixty (60) units. Upon completion of sixty (60) units there would be a need for a check-in with the Town Council and a revised traffic study to determine the effectiveness of the pedestrian underpass and associated lane age changes once constructed in reducing the queuing time at the Basalt Avenue/Highway 82 traffic signal. The updated traffic study after the development of sixty (60) units would identify if the mini-roundabout would need to be constructed before further development is permitted or define how

many more units could be built without triggering the need for the mini-roundabout. Staff has included a draft condition representing this concept.

Staff believes that this concept related to traffic allows for the Applicant to construct a reasonable amount of development, yet requires the installation of the mini-roundabout prior to the intersection reaching an unacceptable level of service given that the construction of the pedestrian underpass will improve existing conditions. As the Applicant has indicated that he intends to try and get final approval on the multi-family portion of the development and construct a mix of the single-family and multi-family development at once, Staff believes that this concept may likely get refined as part of multi-family component's final review, but Staff believes it is satisfactory for approval of the single-family portion of the development. Lee Barger of SGM is expected to be in attendance at the P&Z meeting to discuss the traffic study and answer questions.

Affordable Housing Mix: Since the last meeting, the Basalt Affordable Community Housing (BACH) Committee reviewed the Application and made a recommendation on the mix of affordable housing that should be provided in the project. Specifically, BACH recommended that there be a mix of affordable housing product provided in Stott's Mill, including single-family units, multi-family units, and vacant AH lots.

BACH felt that the single-family lots could potentially be sold to the School District/Habitat for Humanity to help reduce the number of units to be built in the project that is contemplated behind the High School. BACH was also of the opinion that the affordable housing mix should generally be provided in the same proportion as the mix of single-family and multi-family development provided in the development. Therefore, BACH was suggesting the following breakdown on the 156-unit scenario:

19 Multi-Family Units
5 Single-Family Units
10 Single-Family Lots

The 34 AH units/lots represent 32 units to satisfy the Town's inclusionary housing requirements and 2 units to satisfy the school land dedication requirements. Staff had discussions with the Habitat for Humanity representatives and they indicated that they were interested in moving forward with their project south of the High School, but that they could reduce their density behind the High School if a partnership worked for them to acquire some lots in Stott's Mill. The Town Code and Community Housing Guidelines do not provide a maximum price for vacant lots to be used as affordable housing mitigation. Therefore, Staff came up with a suggestion that the vacant lots have a maximum price cap of \$23 per square foot of lot area in the AH lots, which represents the average lot listing price per square foot in Southside, discounted by 1/3.

The mix of 19 multi-family units, 5 single-family units, and 10 single-family lots has been included in the draft conditions of approval with the caveat that if the Applicant is unable to get final approvals on the multi-family portion of the development, the Applicant would

be required to provide all of the affordable housing at a rate of 20% of the units and 25% of the overall floor area in the single-family portion of the development since the single-family portion of the development is set up to get reinstated for vested rights before the multi-family portion of the development.

Density: Staff has struggled in making a recommendation on the proposed density, but supports density within the UGB. Staff has included in the conditions that the sketch plan portion of the multi-family component is approved for the proposed ninety-six (96) units but that the allowable density in the multi-family component will be revisited in the final plan review as we get more knowledge on the traffic implications and how other projects that are contemplated in the southside are taking shape.

It was noted that the P&Z requested an update on how other potential affordable housing projects were progressing. Staff provides this update below:

- 1) Willits Town Center Block 7 North- 50 Rental Affordable Housing Units nearing completion of construction.
- 2) Willits Town Center Block 7 South- Building permit has been applied for on 27 Affordable Housing Units.
- 3) Roaring Fork Apartments (Foundation next to Stubbies)- Owner applied for tax credits from the State for construction financing and will be notified in late August/September whether they received the tax credits.
- 4) Habitat for Humanity/School District Housing- Habitat for Humanity Representatives met with Staff and are moving forward towards an application with a reduced density scenario.

Vested Rights and Phasing: As discussed at the last meeting, the Applicant has proposed vested property rights of five (5) years for installation of the infrastructure and ten (10) years after the installation of infrastructure is installed for buildout of the project. North Park is proposed to be installed in the initial five (5) year period of infrastructure installation and South Park is proposed to be completed prior to half of the units in the development being constructed as was included in the 2009 approvals. Staff's understands that this is a project of significant scale, but Staff would prefer requiring that the infrastructure be installed in three (3) years (which is the Town's standard vested rights period as set forth in the Town Code) and that the build-out be limited to seven (7) years after installation of infrastructure. Staff has included a draft condition requiring infrastructure installation in three (3) years and buildout in seven (7) years after infrastructure installation with the ability for the Applicant to come back and ask for an extension from the Council.

V. Items Agreed to by the Applicant at 7/19 Meeting:

The Applicant agreed to the following at the 7/19 P&Z Meeting:

- 1) Participate in instituting the POST's preferred Southside Drive Cross-Section along the Stott's Mill frontage; and,
- 2) Participating in providing a contribution to funding Southside Drive traffic-calming and dedicating land for the potential of a future mini-roundabout on Southside Drive if determined appropriate for construction by the Town in the future; and,
- 3) Allison Lane emergency access scenario suggested by Staff.

VI. Recommendation:

Staff recommends that the P&Z hear a brief presentation from Staff on the new information and the draft conditions. Staff then recommends considering the Applicants' comments, taking public comments, and providing discussion. Staff has included draft conditions of approval for the P&Z's consideration. The final conditions from 2009 were used as a basis for the draft conditions. The 2009 conditions that have been updated to be applicable to this application in underline/strikethrough format are included below.

The Planning and Zoning Commission recommended conditions below are based on:

- 1) Final approval of the Reinstatement and Amendment of the 2009 Stott's Mill approvals for the portion of the 2016 Final Development Plan which includes the 60 individual lots on Blocks 1-5 (whether used for Single family dwellings, a child care or manager's unit); the north park and south parks; and the public street network
- 2) Sketch Plan approval of up to 96 multi-family units.

COMMUNITY BENEFITS

1. The development shall satisfy annexation requirements for park and trail improvement and dedication improvements as described further in Conditions Nos. ~~No. 6 and 7~~ in Exhibit J. A public bathroom shall be provided in South Park which can also be used by users of the RFTA valley wide trail and designed to accommodate winter use of the Nordic trail. This bathroom may be incorporated into the Tennis Center provided an exterior entrance is provided.
2. *Dependent on Applicant's final negotiation with the School District* - The development shall provide a community housing program that provides teacher housing in lieu of land dedication, in the form of two (2) deed-restricted Category 3 units as further described in Condition No. 14 under Attainable Housing" and Condition 9 under "Phasing and Approval Documents" ~~provides eleven (11) relocation dwelling units for the river master plan implementation, and provides long term "attainable" housing for a community of residents as described further in the conditions established herein, and as proposed in the Stott's Mill Final Plan application.~~

- 3) ~~The Applicant shall construct and receive a core and shell CO on a daycare facility of at least 4,000 square foot core and shell daycare space on the first floor of the building on Lots 37 and 38, of Block 4, with the associated fenced playground space as generally shown as the Option B Preferred Layout on the Peak Architects (Anderson's) site concept plan dated 8-4-2006 3,300 square feet on Block 9 of the development prior to the Applicant obtaining a building permit on the 59th dwelling unit within the development. The Applicant shall condominiumize and dedicate ownership of the facility over to the Town once construction is completed and a certificate of occupancy is issued pursuant to the timing described in Exhibit J.~~

- 4) The Applicants shall lease the space to a daycare based on the following:
~~The Town's initial management policy shall be as follows:~~
 - a. ~~The daycare use will be the priority use for the facility; and,~~

 - b. ~~The Town Applicant shall lease the space to a daycare provider at the market lease rate (considering the lease rates for Growing Years, Blue Lake, Learning Curve, and Honey Tree) for mid-valley daycare space as determined by the Town Manager; and,~~

 - c. If a licensed and qualified daycare provider cannot be found to lease the space at the terms identified in 4(b) above and the building sits vacant for a period of one year or greater, the Town Council may choose to put another public use in the space for the lease rates described above. If the Council chooses not to put another public use in the space based on those terms, the Applicant may convert the space into two additional free-market dwelling units.

~~After the daycare space is condominiumized from the remainder of the building by the Applicant and the public dedication of ownership is accepted by the Town, the Town shall be responsible for maintaining and managing the space. The Town will also reserve the right to sell the daycare space once it is dedicated to the Town if the Town ever desires to do so. The daycare facility along with the units above it will be part of the HOA master association and sub association. The owner of the facility will be responsible for discounted HOA dues and assessments as described below. The HOA dues and assessments for the daycare shall be proportional to the HOA dues and assessments for the non-category units above the daycare based on assessed value per square foot and then the daycare dues and assessments shall be further discounted by 20%. At the time the daycare is being constructed, the Applicant may construct residential units above the space with a full second floor; and a partial third floor consisting of at most 1,700 square feet, condominiumize the building, retain and rent the residential units~~

or sell them individually.

5. The development shall satisfy the annexation policy for a minimum 1% Real Estate Transfer Assessment to be used for community benefits. Dwelling units which sell for \$1 Million or more shall have an additional 1% RETA so that the RETA is a total of 2% for those dwelling units.
6. *(To be deleted once FEMA approves the changes to the floodplain map for southside and eliminated the need for river improvements.)* The Applicant, his successors and assigns shall agree to be in a special district to help fund river and flood prevention improvements. River improvements are needed to ensure better vehicle exiting for all of Southside in the event the south side flooding occurs. While the district is not established at the present time, the requirement is that all annexations contribute to the funding of needed river improvements. This type of project would be assessed at a lesser extent than properties in the floodplain or adjacent to the river which benefit to a much greater extent by the improvements. This requirement shall be documented in the PUD control document, subdivision covenants, annexation agreement, or other type of development agreement, as determined by the Town Attorney.
7. The development shall comply with the Town's Sustainable Building Regulations green-building program and all other applicable building codes in effect at the time of building permit. Each single-family residential unit shall have a minimum Home Energy Rating System (HERs) rating index of lower than 80 points (equates to a score of 90 points on the old HERs Scoring System) that will be verified at building permit by the Town's Building Official and meet any green building and energy conservation regulations adopted by the Town at the time of building permit issuance.
8. The Applicant shall identify two (2) parking spaces for use of the carshare program once initiated on the final PUD plan to be recorded. The TRC shall review and approve of the location of the spaces. The Applicant or successors shall pay \$200 per dwelling unit at the time of building permit to the Town for use in implementing a carshare program or other green initiatives at the discretion of the Town's Green Team Advisory Board.

ATTAINABLE HOUSING

1. As represented in the ~~Final Plan~~ application, the dwelling unit breakdown for the project shall be as follows:

Type of Units	(Type-A) Deed-Restricted, Price-Capped Units	(Type-B) Deed-Restricted RO Units with appreciation caps	(Type-C) Deed-Restricted RO Units without an annual appreciation cap	(Type-D) RE-1 Units (Units to be dedicated to the RE-1 School District	(Type-E) Free-Market Units
	<p><u>32 Dwelling Units plus 2 for dedication to the School District (Note- Applicant still in discussions with School District)</u> (11 of which shall be dedicated as Replacement Housing Units, 1 of which shall be offered for rent to a daycare employee working within the Town of Basalt, and 5 of which shall have occupancy priorities for "critical workers")</p>	15 Dwelling Units	53 Dwelling Units	2 Dwelling Units	7 Dwelling Units <u>124 Dwelling Units</u>

a. The Community Housing and RO units developed in Stott's Mill shall meet the requirements established in the Community Housing Guidelines as in effect on the effective date of this ordinance.

b. The category-level units (Type A above) shall have a maximum initial sales price that does not exceed an average price that would be affordable to an individual or household making 445 100% of Basalt's Weighted AMI as defined by using the sales price formula established in the Basalt Community Housing Guidelines.

c. ~~The RO units with appreciation caps (Type B) shall be required to be owner-occupied at least 9 months out of the calendar year and shall have a simple annual appreciation cap of 5%.~~

d. ~~The RO units without appreciation caps (Type C) shall be required to be owner-occupied at least 9 months out of the calendar year, but shall not have an initial maximum sales price cap and shall not have an annual appreciation cap.~~

e. The Applicant shall identify which multi-family units are to be deed-restricted as Category-level units (Type A) and RO units with annual appreciation caps (Type B) prior to submitting a Final Site Plan Application on the Multi-Family portion of the development recording the Final Annexation documents. Additionally, the 10 lots within the development to be used to meet the affordable housing mitigation requirements shall be deed-restricted as for the construction of Category units and RO units with annual appreciation caps as shown on the matrix in Tab 3 of the Final Plan application. First priority to purchase the ten (10) vacant lots shall be provided to the School District and Habitat for Humanity. The maximum sales price for the 10 lots to be used for affordable housing mitigation shall be \$23 per square foot of lot area (represents avg. lot listing price per square foot in Southside, discounted by 1/3).

f. In the event that the Applicant only receives final approval to reinstate the single-family development portion of the project and does not receive final approval on the multi-family development, the Applicant would be required to meet the Town's affordable housing mitigation requirements of 20% of the units and 25% of the residential square footage being deed-restricted at a maximum Category 3 rate in the single-family portion of the development.

f. ~~Critical workers shall be defined as persons employed by the Town of Basalt, Pitkin County, Eagle County, the RE-1 School District, the Basalt Sanitation District, the Mid-Valley Metropolitan District, or the Basalt and Rural Fire Protection District employed in the "employment area" as defined in the Town's Community Housing Guidelines in effect at the time of each occupancy or as a "critical or essential employee" is defined in the Community Housing Guidelines at the time of each occupancy (if a definition~~

~~is added to the Community Housing Guidelines). Vacant units designated with an occupancy priority for critical employees shall be offered to non-critical employees qualifying under the provisions of the Town's Community Housing Guidelines after the units have been advertised to critical employees for sixty (60) days.~~

~~2. At least 2 of the deed restricted RO restricted dwelling units (Type B) shall be on the 28 foot wide lots as proposed in the Final Plan application.~~

~~3. The Applicant shall offer at least 25% of the small lots (28 foot and 42 foot wide lots) to "owner builders".~~

~~a. Of this total, up to 5 units of the RO deed restricted units (Type B) may be permitted to count toward the required number of owner builder lots. At least two of the owner builder lots shall be on the 42 foot wide lots.~~

~~b. To discourage flipping of the lots and residences on owner/builder lots:~~

~~i. The vacant owner/builder lots shall be limited to simple annual appreciation caps of 3% per year or the Consumer Price Index (CPI), whichever is greater, until such time as a residence is completed and is issued a CO on each respective lot. The base price to be determined when the first purchaser buys a vacant lot at market conditions. In addition, the RETA established in Condition No. 4 in Exhibit B, shall apply.~~

~~ii. Instead of the 1% up to 2% RETA provisions established in Condition No. 4 of Exhibit B, the following will apply after a residence is built and a CO is issued until the earlier of either 3 years have elapsed following the issuance of the CO or until after the next purchaser buys the home from the initial home purchaser.~~

~~Once a residence is built on an owner/builder lot and a CO is obtained, if the owner/builder sells the residential unit within one year of obtaining a CO, the initial home purchaser shall pay a 5% RETA to the Town. If the owner/builder sells the residential unit within two years of obtaining a CO, the initial home purchaser shall pay a 4% RETA to the Town. If the owner/builder sells the residential unit within three years of obtaining a CO, the initial home purchaser shall pay a 3% RETA to the Town.~~

~~Finally, if the owner/builder maintains ownership of the residential unit for more than three years after obtaining a CO, only the RETA provisions established in Condition No. 4 of Exhibit B shall apply.~~

~~4. The Applicant shall participate with the Town's designated housing administrator or other similar entity to participate in down payment assistance~~

programs.

5. ~~Up to one floor of development may occur above the daycare may be used as the Multi-family's Management Office and a dwelling unit for the Applicant's Resident Manager and a half floors (half of a floor is not to exceed 1,700 total square feet) of dwelling units (Types A, B, and C) may be located on above a daycare facility. The final design of the daycare/ residential building on Block 9 shall be reviewed for approval pursuant to the procedures in Condition No. 5, Exhibit D prior to the issuance of the first building permit in the development. The primary intent of the design review is to ensure that there is an appropriate level of fenestration and that the alley facing elevation contains architectural detailing to provide visual interest.~~
6. ~~The Applicant shall only list all the lots and units within the development for sale with a local realtor with a primary office within the Roaring Fork Valley, except for the Category-level ownership units that are to be sold through the Town's lottery process. No marketing in national newspapers or magazines for the first sale of any lot or dwelling unit is permitted.~~
7. ~~The initial HOA dues and assessments and changes to the HOA dues and assessments over time for the Category housing units (Type A) shall be as required by the Community Housing Guidelines, as amended from time to time. The Applicant shall provide a revised draft initial HOA budget for review and approval by the TRC prior to recording the necessary annexation documents. The revised HOA budget shall include a sufficient capital improvement fund. In no instance shall the HOA dues and assessments for the category-level units (Type A) be more than 80% of the HOA dues and assessments for the free-market units (Type E) and RO units without appreciation caps (Type B).~~
8. ~~Prior to the first sale of one of the 15 RO units with an appreciation cap (Type B), the Town or other public entity shall have an option to purchase the unit or a Category-level deed restriction to make said unit a Category 3 ownership unit. The "first option" provisions shall allow for the Town to have an ability to make an offer to purchase the unit or pay the difference between market rates and the sale price for a Category 3 Unit in exchange for deed restricting said unit as a Category 3 Unit (Type A). If the Town declines to make an offer to purchase or buy a Category 3 deed restriction on the units in the allotted timeline, then Pitkin County or another public entity shall have the option to purchase the unit or buy a category deed restriction on the unit.~~

~~The Applicant shall notify the Town when an RO unit with an appreciation cap (Type B) is scheduled to be listed for sale. The Town or other public entity shall have 60 days from the Applicant's notification of listing to notify the developer of intent to purchase the unit or purchase a Category 3 deed restriction on said unit. The Town or other public entity will have 30 days after~~

~~notifying the Applicant of intent to buy a category deed restriction on a unit to enter into a contract with the Applicant. The market price for the RO unit (Type B) will be determined by an independent appraiser to be paid for by the Applicant. RO Units are not proposed or required by the Town as the Town has experienced issues with retaining deed restrictions on RO units.~~

- ~~9. The remaining housing units which are not price (Type A) or appreciation-capped units (Type B) shall be resident occupied and be deed restricted as such, with the exception of the seven (7) free market lots located in Blocks 6 and 11. These remaining housing units with the exception of the seven (7) free-market units (Type E) shall be owner-occupied at least 9 months out of the year but shall have no income or asset restrictions and will not be subject to annual appreciation caps.~~
- ~~10. The Applicant shall have the ability to construct a duplex on up to fourteen of the 28-foot wide lots. Each duplex (both units together) shall be capped at the single-family square footages for the R3-TN PUD units that are set forth in Condition No. 2 of Exhibit D. Duplex units shall not be combined into one unit and there shall be no openings permitted in the common wall between units. The final covenants shall include the provisions described above.~~
11. The small lots (28-foot wide and 42-foot wide) shall be permitted to provide one of their required parking spaces on the street as requested by the Applicant. Each of the small lots includes parking on-site for two cars and the parking requirement for a three-bedroom dwelling unit is rounded up to three parking spaces for these lots. The other uses shall be code compliant in terms of parking.
12. The live/work and home occupational aspects of the Stott's Mill development are approved as represented in the Final Application, as further clarified herein. The inhabitants of the multi-family dwelling units shall be permitted to use up to 15% of their allowable square footage as home occupation space. The single-family lots to be zoned R3 (Type E) and R-3-TN PUD (Types A, B, and C) shall permit home occupations that do not employ more than 1 FTE that does not live on the premises and shall be allowed to use up to 30% of their allowable square footage as home occupation. All home occupations shall also comply with the remainder of the home occupation requirements set forth in the Town Code.
13. The Applicant shall construct a chain link fence (consistent in design and materials with the existing chain link fence between the High School and the Cerise property) at the eastern boundary of the property to protect the adjacent agriculture land prior to commencing any construction activities on the site. The fence shall be maintained after construction, but the abutting property owners may construct an internal fence meeting the guidelines in the

PUD.

14. ~~Dependent on Applicant's final negotiation with the School District.~~ The Applicant shall deed restrict two (2) units, consisting of one studio and one 1-bedroom unit, as Category 3 Units and then deed the Units to the RE-1 School District ~~upon condominiumizing the building in which the units are located.~~—The two (2) units for School District employees shall obtain Certificates of Occupancy (CO) and be deeded to the School District before the issuance of COs prior to the completion of half of the units within the development. ~~on units in the third block to be developed on within the subdivision.~~—The School District units shall be part of the HOA and the School District will pay the HOA dues and assessments applied to comparable community housing units in the development.

15. The apartment units proposed to be category-level rental units (Type A) shall be rented at no more than the maximum rental rates and pursuant to the rental provisions established in the Community Housing Guidelines, as may be amended from time to time. The Applicant shall grant 1/10th of one percent ownership interest in each such rental unit to the Town of Basalt and hold the Town harmless for any liability incurred related to the Town's ownership. ~~In addition, the restrictive covenants for the development shall contain a requirement that the eleven (11) units designated as replacement housing units shall be required to remain rental units for a minimum of ten (10) years after the issuance of a CO on the individual units.~~

~~The Town or other eligible replacement housing owner shall have a right of first purchase to buy the replacement housing units if the Applicant decides to convert the units to sale units pursuant to the provisions established above. For the purpose of this condition, eligible replacement housing owners shall be the Town, Town's designated Housing Authority, Eagle County, Pitkin County, or other entity assigned by the Town for the purpose of providing replacement housing. At any time after the ten (10) year period, upon notification that the Applicant would like to convert the replacement housing units to sale units, the Town will have will have 45 days notify the Applicant of intent to buy the units and then a subsequent 45 days to enter into a contract to buy the units.~~

~~Replacement Housing residents that qualify for a first priority to occupy the designated replacement housing units shall mean an employee with a job or principal office from Aspen to Glenwood Springs that lived in one of the mobile homes to be removed because of floodplain concerns identified in the 2002 River Stewardship Plan. In order to qualify under the occupancy priority for residents, the prospective occupant must demonstrate to the satisfaction of the Town that the mobile home they lived in has been permanently~~

~~removed from the floodplain and not replaced with another unit in the floodplain. If after 30 days of the replacement housing unit being advertised for rent to replacement housing residents, the unit is not rented to a qualified replacement housing resident, it shall be rented in accordance with the rental requirements set forth in the Community Housing Guidelines for the Category of unit that it is designated~~

In the event that the Applicant wishes to sell any of the rental category units, the Town shall deed the Town's ownership interest back to the Applicant and the category-level community housing units (~~Type A~~) would be required to be sold according to the provisions in the Community Housing Guidelines for sale units in affect at the time and the Applicant must record a new deed restriction to meet the requirements in the Community Housing Guidelines for owned units. If at any time, a court of competent jurisdiction finds that the Applicant's agreement to rent the multi-family units at below market-rate rents violates a state or federal law, or if the Town determines that the rental deed restrictions are unenforceable, then the units shall be sold to qualified buyers as defined in the Town's Community Housing Guidelines at the maximum initial sales prices specified for the category of unit (Category 1, 2, 3, ~~or RO~~) that they are designated, and the Applicant must execute a new deed restriction to meet the requirements of the Community Housing Guidelines for owned units, ~~pursuant to the required plan specified in Condition No. 1(e), of Exhibit C.~~

16. One of the Category 3 units (~~Type A~~) shall be first offered for rent for a 60-day period to full-time daycare employees employed within the town limits of Basalt and if the unit is ever condominiumized and sold, it shall be first offered for sale for daycare employees working in the town limits of Basalt for 60-days each time it is offered for sale. In the event that qualified employee that works within a daycare cannot be found to rent or purchase the unit, it shall be offered for rent or sale subject to the rental and sale provisions for a Category 3 unit in the Community Housing Guidelines.
17. The Applicant shall include language in the Master Declaration of Covenants generally consistent with the following:

If any Property or Unit is sold as a foreclosure sale or otherwise acquired by any person or entity in lieu of foreclosure, the Town, Pitkin County, or Eagle County, shall have the option to enter into an agreement to acquire such Property or Unit within sixty (60) days after the following:

- (i) *the issuance of a public trustee's deed to the purchaser, or*

(ii) receipt by the Town of written notice from such person or entity of the acquisition of such Lot or unit in lieu of foreclosure, as applicable, for an option price not to exceed

(a) in the event of a foreclosure, the redemption price on the last day of all statutory redemption periods and any additional reasonable costs incurred by the holder during the option period which are directly related to the foreclosure, or

(b) in the event of a transfer in lieu of foreclosure, the amount paid, or the amount of debt forgiven, by the transferee plus the reasonable costs incurred by the transferee with respect to its acquisition of such Property or Unit.

Except for persons or entities having a lien on a Property or Unit as provided herein, only "Qualified Buyers" as that term is defined herein or the Town, Pitkin County, or Eagle County may acquire an interest in a Property or Unit at a foreclosure sale or in lieu of foreclosure. If any person or entity having a lien on a Property or Unit is not a Qualified Buyer and acquires an interest in such Property or Unit in a foreclosure sale or in lieu of foreclosure, the provisions in the Master Declaration of Covenants for non-qualified transferees shall apply. It is the Town's intent that the terms and provisions of this Agreement shall remain in full force and effect with respect to the Property and all Units until modified, amended or terminated in accordance with the terms of the applicable Master Declaration of Covenants.

In the event that the Town, Pitkin County, or Eagle County, exercise the option described above, the entity purchasing the unit, may sell the Property or Unit to Qualified Buyers as that term is defined herein, or rent the Property or Unit to qualified tenants who meet the income, occupancy and all other qualifications, established in the Basalt Community Housing Guidelines, until a sale to a Qualified Buyer is affected.

However, in the event of foreclosure by the holder of the first deed of trust on such Property or Unit, if the holder of such deed of trust is the grantee under the public trustee's deed and the Town, Pitkin County, or Eagle County does not exercise its option to purchase as provided in the applicable Master Declarations of Covenants, then the Town agrees to release the Property or Unit from the requirements of this Deed Restriction."

SITE PLAN, DESIGN, AND DEVELOPMENT PROGRAM

1. The Applicant shall abide by the revised design guidelines dated August of 2008. The design guidelines shall be incorporated into the PUD approval

documents and enforced by the Town in building permit review. This shall not preclude the ability of the development to have a design review board in addition to the Town’s review purview over the design guidelines.

Each building permit application submitted to the Town for a new single-family or duplex residence within the development shall have first been reviewed and approved by the subdivision’s design review board for compliance with the subdivision design guidelines. In the event that there is a disagreement between a building permit applicant and the Building Official, the building permit applicant may appeal the Building Official’s determination to the Town Council to be considered at a duly noticed public hearing.

The design guidelines shall be amended prior to being included in the PUD approval documents to include the following:

- a. ~~A maximum solar panel size shall be three feet by four feet; and,~~
- b. A requirement that front yard fences shall meet all requirements in the Town Code for front yard fences and front yard fences shall be setback at least 12 inches from the back of the sidewalk.

The Applicant shall also provide a variety of designs and contract with at least four (4) different local architect firms to design the units to be constructed by the developer to ensure variety in design.

- 2. The dimensional requirements for the narrow lots (28-foot wide and 42-foot wide) zoned R-3 TN PUD shall be as follows:

Dimensional Requirement	Approved Measurement
Min. Lot Area	3,360 SF
Building Height	24 Ft. to midpoint
Ridge Height	28 Ft.
# of Stories	2
Lot Width	28
Front Yard Setback	10 Ft. Porch 16 Ft. Living Area
Rear Yard Setback	7 Ft.
Side Yard Setback	5 Ft.
Floor Area	<ul style="list-style-type: none"> • 1,328 Total Square Feet for 11 of 28 Ft. wide lots • 2,000 Total Square Feet for 31 of 28 Ft. wide lots

	<ul style="list-style-type: none"> • 2,376 Total Square Feet for 42 Ft. wide lots
Max Lot Coverage	70%
Min Landscape	20%
Parking	Per Town Code. The small lots that have three-bedroom units shall be permitted to provide one of their required parking spaces on the street as requested by the Applicant.
Maximum No. of Bedrooms in a Unit	3 Bedrooms

3. ~~The dimensional requirements for the larger lots (Type E) zoned R-3 PUD, known as Lots 1-3, Block 6, and Lots 1-4, Block 11 shall be as follows:~~

Dimensional Requirement	Approved Measurement
Min. Lot Area	6,000 SF
Building Height	24 Ft. to midpoint
Ridge Height	28 Ft.
# of Stories	2
Lot Width	50
Front Yard Setback	10 Feet
Rear Yard Setback	10 Feet
Side Yard Setback	10 Feet
Floor Area	4,500 Total Square Feet
Max Lot Coverage	NA
Min Landscape	20%
Parking	Meet Code Requirements

(Note Deleted as all of the single-family lots are now proposed as R-3 TN PUD Lots)

3. The dimensional requirements for the multi-family residential buildings on Blocks 1A, 1B, and 1C zoned R-4 MD PUD shall be as follows:

Dimensional Requirement	Approved Measurement
Min. Lot Area	NA*
Building Height	33 Ft. to midpoint
Ridge Height	35 Ft.
# of Stories	3
Lot Width	50
Front Yard Setback	10 Feet
Rear Yard Setback	20 Feet
Side Yard Setback	10 Feet
FAR of Building	<u>.69:1</u> No Max Defined by Massing Envelope of Setbacks and Height
Max Lot Coverage	NA
Min Landscape	20%
Parking	Meet Code Requirements

*- A total of 47 96 dwelling units shall be permitted on the multi-family Property Lots 1A, 1B, 1C, and Block 9. (Note: This density is permitted for the sketch plan approval on the multi-family and is subject to change at Final Plan Review). The maximum unit sizes allowed on the parcels to be zoned R-4 MD PUD are as follows:

Unit Type	Maximum Unit Size
Studio	700 Total SF
1-Bedroom	<u>750 800</u> Total SF
2-Bedroom	<u>1,400 965</u> Total SF
3-Bedroom	<u>1,250 1,135</u> Total SF

5. The Applicant shall submit a final design for the multi-family units on Lots 1A, 1B, 1C, and Block 9 for review and approval by the Planning and Zoning Commission prior to issuance of a building permit on any of these buildings. If the TRC determines the designs to be substantially different from the conceptual designs reviewed during the Final Plan review, the final design review will require review by both the P&Z and Town Council as a Special Review pursuant to the then applicable special review procedures in the Town Code. Multi-Family Design to be reviewed as part of the Final Site Plan Review.

IMPACT FEES AND DEDICATIONS

1. The Applicant shall participate in or contribute on a proportional basis to the future cost of making the transportation improvements that will be necessary to mitigate the cumulative impacts of traffic growth from this and other expected projects. The Applicant shall pay a transportation fee at the time of building permit issuance for each of the individual units based on the following schedule:

Type of Unit	Fee
Free-Market Residential (Type E)	
Detached	\$.85 per total square foot
Attached (Includes duplexes)	\$.70 per total square foot
RO (Types B and C)	
Detached	\$.80 per total square foot
Attached (Includes duplexes)	\$.65 per total square foot
Community Housing (Type A)	
Detached	\$.45 per total square foot
Attached (Includes duplexes)	\$.35 per total square foot

(Note: Staff did not grow this fee because there are significant transportation improvements required of this development application, but other Applications that are proposed are expected to have an increased fee.)

2. The Applicant shall contribute on a proportional basis to the cost of implementing the new water storage tank using the methodology and timing of payment in the Town Code and adopted fee schedule (as adopted in Ordinance No. 18, Series of 2008). The Stott's Mill project is subject to certain surcharges, as provided in the Municipal Code, for connecting to the existing water distribution system.
3. The plans for a Southside Traffic Roundabout or an Alternative Traffic Calming Mechanism on Southside Drive adjacent to Stott's Mill must be approved by the Town Council before or concurrent with the Final Plan approval of the multi-family portion of the development. The Applicant's responsibilities for construction of this improvement will be addressed in the Final Plan review for the multi-family housing. However, the Applicant shall also dedicate the land area necessary for the implementation of a mini-roundabout at the intersection of Southside Drive and Running Brook Drive as proposed in the Application prior to recording the final plat for the Subdivision.

~~The Applicant shall be responsible for constructing a roundabout on Southside Drive in the location shown on the site plan incorporated in the~~

~~Stott's Mill Final Plan application pursuant to the timing requirements established in Condition No. 12, Exhibit J of this ordinance, unless the roundabout is constructed by another before the Applicant is issued a construction permit from the Town to commence construction activities. It is the intent of this condition that the earlier of the Stott's Mill or Basalt Design District development projects (with the exception that Basalt Design District may construct up to two additional commercial mini-storage buildings on a property without triggering the need to construct the roundabout) to be issued a construction permit as determined by the TRC would be required to construct the roundabout. Further, it is the Town's intent to require all subsequent Town approvals for development constructed south of the intersection of Fiou Lane and Southside Drive to be responsible for repaying the developer that constructed the roundabout a proportional share of the design and construction costs of the roundabout based on anticipated trip generation as determined by the Town Engineer.~~

~~The final construction and design cost of the roundabout subject to the reimbursement shall be established by the Town Engineer at the time of completion of the roundabout construction and shall be based on the actual design and construction cost of the roundabout and the value of land dedicated for the roundabout. For the purpose of ensuring an equitable assessment and distribution of the final costs of the roundabout, the final construction cost to be reimbursed will also include the actual cost of borrowing money for the construction of the roundabout and the Applicant shall demonstrate to the satisfaction of the Town Engineer their interest costs related to borrowing money to construct the roundabout. The interest costs related to borrowing the money to construct the roundabout shall be based on the cost of a construction loan. For the purposes of this reimbursement, the cost of a construction loan shall be based on the Prime Interest Rate as published in the Wall Street Journal at the time the Applicant takes out a construction loan to finance the construction of the roundabout and the term of the roundabout construction loan to be reimbursed shall not exceed five (5) years (if the construction loan is taken out by the Applicant for a term less than five (5) years then the interest reimbursement shall be based on the actual term of the loan). If the Applicant takes out a construction loan for longer than five (5) years, the interest reimbursed on the construction loan shall be limited to five (5) years.~~

~~The final construction cost shall be demonstrated by the Applicant by providing an itemized summary of the design and construction costs and related invoices to the Town Engineer. The Town Engineer shall provide notice of the final construction costs to the other known parties subject to the reimbursement requirements and by publishing in a local newspaper of general circulation and said parties and the public shall have fifteen (15) days from the notice to appeal the final construction costs. If an appeal of the final~~

~~roundabout construction cost is filed, the Town Council shall consider the appeal at a public meeting in which (15) days written notice of the public meeting has been provided to the appellants.~~

~~The Applicant shall prepare construction drawings of the roundabout for review and approval by the Town Engineer as part of the final civil engineering drawings.~~

~~Developers dedicating land for the construction of the roundabout shall receive credit against their required reimbursement contribution at a fixed value of \$20 per square foot of land dedicated. If the land owner on the west side of Southside Drive at the location of the roundabout is not willing to grant the land to the Town for the roundabout prior to the time that a developer is ready to build the roundabout, a modified roundabout that only requires the dedication of the land on the east side of Southside Drive by the Stott's Mill Applicant shall be constructed subject to approval of the modified roundabout design by the Town Engineer.~~

~~The construction of the roundabout shall occur when school is not in session, unless the Applicant proposes, and the Town approves, a plan to detour traffic around the construction site; and Southside Drive shall not be completely closed during construction.~~

~~The Applicant shall enter into a cost reimbursement agreement determined acceptable to the Town Attorney prior to recording a Master Subdivision Plat. Town-initiated amendments to this condition require four affirmative votes of the Town Council after a public hearing in which a fifteen (15) day notice is also provided to the parties subject to the reimbursement.~~

- ~~4. The Applicant shall conduct a traffic study acceptable to the Planning Director upon the completion of the pedestrian underpass to establish new baseline conditions or pay the Town for the cost to complete the study. The Applicant shall provide financial security for its share, determined to be one-third of the construction costs, of a mini roundabout at Cody Lane and Basalt Avenue ("Mini Roundabout Improvement" or "Improvement"), before filing a plat on the Property. The Town will assume a conservative \$500,000 for the cost of the Mini Roundabout Improvement until final plans and cost estimates are prepared and certified by an engineer for Improvement and accepted by the Town Engineer. Therefore, until the Town Engineer certifies a lower cost the Applicant shall provide security of \$165,120, prior to filing a plat to develop on the property. The Town Engineer can approve a lower amount based on 115% of certified cost estimates on an approved plan for the Applicant's share provided the Applicant agrees to pay its fair share upon construction of the Improvement. Upon providing financial security in a form acceptable to the Town Attorney in the amount required by this condition, the Applicant may~~

construct up to sixty (60) units, the daycare and park improvements (including the tennis center to be built by others).

Upon completion of 60 units, an updated traffic study is required to be submitted and accepted by the Planning Director for adequacy of the required information and a check-in with the Town Council must be conducted before any additional units may receive a building permit. The purpose of the updated traffic study is to determine the effectiveness of the pedestrian underpass and associated lane age changes with regards to reducing the queuing time and providing an acceptable level of service at the Basalt Avenue/Highway 82 traffic signal. The updated traffic study would identify whether the mini-roundabout is needed to be constructed before additional development is permitted or define how many more units could be built without triggering the need for the mini-roundabout. This condition may be refined during final plan review of the multi-family units.

5. The Applicant shall prepare and submit for the Town an updated access permit with CDOT. Alternatively, at the Town's sole decision, the Town shall prepare and submit the access permit and be reimbursed by the Applicant. The required permit application shall be submitted before or concurrent with the Final Plan application unless waived by the TRC.
6. The Town will use its best efforts to seek funds from other Developments in the Southside for the necessary studies and improvements needed to accommodate the pedestrian and vehicular traffic through the area. The Town will use its best efforts to reimburse the Applicant when other funds are received so that the Applicant is only paying for its fair share of the studies and infrastructure.

WATER RIGHTS

1. The Stott's Mill developer shall dedicate by special warranty deed all of its 1.57 cfs, absolute, decreed in the Grace & Shehi Ditch, 0.644 cfs under Priority 142 and 0.926 cfs under Priority 302, which have been historically used to irrigate 12.29 acres of the 17.976 acres proposed for annexation into the Town as more further described in the Memorandum from Tom Kinney, Town of Basalt Water Attorney, to Susan Philp and Larry Thompson dated April 30, 2007.
2. The Town shall lease back to the Applicant, portions of these Grace & Shehi Ditch water right priorities for continuation of raw water irrigation within the Stott's Mill PUD Parcel.

3. The Applicant shall be required to provide a cash-in-lieu payment reflecting the cost of the Town's obtaining water rights sufficient to meet the full build-out municipal water service demand occurring during the non-irrigation season (currently anticipated 18.2 acre-feet).
4. As part of constructing the irrigation water storage pond on the property, the Applicant shall abide by the following requirements:
 - a. The out-of-priority stream depletions resulting from pond evaporation should be incorporated by the Town into the Town's augmentation plan, which augmentation plan is and shall continue to be solely owned and maintained by the Town.
 - b. The Applicant shall make a cash payment to the Town in lieu of the dedication of additional water rights and in an amount appropriate to compensate the Town for the legal and engineering costs associated with either amending the Town's augmentation plan or obtaining Water Court approval of an additional augmentation plan, to incorporate the operational pond as an augmented structure.
 - c. The declaration of covenants and the subdivision improvements agreement shall contain language prohibiting the use of treated water for outdoor irrigation purposes, except between November 1st and March 31st when homeowner's may use treated water for irrigation.
 - d. Applicant shall continue to use the dedicated 1.57 cfs Grace & Shehi Ditch water described herein above at Condition No. 1 of Exhibit F pursuant to the annual lease-back agreement described herein below at Condition No. 5 of Exhibit F for the purpose of irrigating 12.29 acres of historically irrigated acreage within the Stott's Mill PUD Parcel until development construction begins and shall thereafter continue to use a portion of said 1.57 cfs Grace & Shehi Ditch water right to continuously irrigate the maximum portion of said 12.29 acres historically irrigated within the Stott's Mill PUD Parcel practicable during construction of the Stott's Mill PUD.
5. The Town's former Water Attorney has drafted a municipal water service agreement, water rights dedication deeds, and an annual lease agreement by which the Town will lease back to the developer and/or home owners' association(s) a portion of the 1.57 cfs of dedicated water rights in the Grace & Shehi Ditch for raw water irrigation. The Applicant shall execute these documents prior to or in conjunction with recording the final annexation plat and agreement.

PARKS, TRAILS, AND OPEN SPACE

1. The Applicant shall comply with the annexation requirements for parkland dedication and park improvements by:
 - a. Dedicating ownership of 4.5 acres of improved park land to the Town as shown on the Final plat and ~~as described in the Final Plan application and improving the two parks as shown on the landscape plan prepared by Mt. Daley Enterprises with a revision date of 11/17/09.~~
 - b. For South Park, the Tennis Group represented by Diana Elliot shall be able to construct an indoor tennis center comprised of three (3) tennis courts in the event that they are able to raise the necessary funding as determined by the Town Manager by *two years after the final project approval date*. If the Tennis Group has not obtained enough funds to build the tennis facility by *two years after the final project approval date*, the Applicant will resume control of installing an active park consistent with the park plan in the 2009 approvals to include a public bathroom in the vicinity of the Denver and Rio Grande Trail, storage space incorporated into the bathroom design for use by the Public Works Department, drinking fountain, trails, signage, bicycle parking facilities, 2 basketball courts, and 4 tennis courts, a small storage space of 30 feet by 20 feet to be used by the Aspen/Snowmass Nordic Council or others for storage of nordic grooming equipment and the historic cabin in the configuration generally shown on the landscaping plan dated 6/8/09. As the Town will own the storage space, the Town will be able to use it or specify the use of it in the event it is no longer needed to store nordic grooming equipment. If the Tennis Center is not built, conditions c-j below will also apply.
 - c. A revised landscape plan shall be submitted for review by the TRC prior to recording the Master plat and SIA that demonstrates the ability for and the location of a 14-foot wide Nordic ski loop in South Park that is free of landscaping barriers.
 - d. The Applicant shall erect the proposed pole and rail fence between the Rio Grande Trail ROW and the Stott's Mill property prior to commencing construction activities on the entire site.
 - e. The Applicant shall enter into a license agreement with RFTA to construct the a sidewalk connections to the Rio Grande Trail prior to recording a Master Plat and SIA.

- f. The trails on the Landscape Plan prepared by Mt. Daly Enterprises, dated 4/17/09 in the North and South Park shall be asphalt.
- g. The Applicant shall relocate the historic cabin to South Park and make it structurally sound for use as a recreational feature in South Park. This shall be completed as part of the required improvements discussed in Condition No. 7 of Exhibit J below.
- h. The Town will conduct the routine park maintenance on North and South Park, but the Applicant shall enter into a perpetual maintenance agreement with the Town requiring that the HOA will maintain the raw water irrigation system at its sole expense. The Town Attorney and Public Works Director shall review the maintenance agreement prior to recording it at the Pitkin County Clerk and Recorder's Office. The agreement shall be recorded in conjunction with recording final annexation plat and agreement.
- i. ~~The Applicant shall submit trail sign plans for the intersection of the sidewalks/trails in South Park to the Rio Grande Trail for review and approval by Pitkin County Open Space and Trails and the Basalt TRC.~~
- j. The Applicant shall provide an irrigation plan for irrigation in the Town's right-of-ways for review and approval by the Town's Horticulturist Assistant Planning Director prior to issuance of any building permits for the development.

FIRE DISTRICT CONDITIONS

1. The declaration of protective covenants shall require that fire apparatus access roads within the development shall not be obstructed in any manner, including the parking of vehicles so that the minimum widths and clearances established in the Section 503.4 of the International Fire Code are maintained. Language shall also be added to the declaration of protective covenants shall also prohibit the parking of recreational vehicles or boats in the on-street parking spaces within the development.

The declaration of protective covenants shall provide that these requirements are enforceable by the HOA and by the Basalt and Rural Fire Protection District.

EXHIBIT I

TECHNICAL CONSIDERATIONS

1. The Applicant shall comply with all of the geo-technical recommendations provided by HP Geotech, including the basement recommendations made by HP Geotech in their letters dated October 23, 2007 and April 3, 2008, requiring that basements for the single-family lots not extend more than six (6) feet below existing grade and that basements not be provided in the multi-family buildings. This shall be a requirement of the declaration of protective covenants.
2. The Applicant shall only be required by the Town to remove a small area of willow vegetation on the westernmost extent at which the Home Supply Ditch is on the Stott's Mill property before it reaches Southside Drive and a small area of willow vegetation at the easternmost extent at which the ditch is located on the Stott's Mill property. These small areas of removal shall be revegetated with a native low-lying species approved by the Public Works Director ~~Town Horticulturist~~. The Applicant shall have finalized an agreement with the Home Supply Ditch Company to enable the Applicant to construct Alexander Lane across the ditch prior to recording the Master Plat dedicating the parks to the Town.

The Applicant shall prepare a revised landscaping plan for North Park for review by the TRC and the Assistant Planning Director ~~Town Horticulturist~~ that includes an area of dense vegetation adjacent to the irrigation pond that may replace some bird habitat that might be lost if the ditch company or the Applicant removes all of the vegetation on the south side of the Home Supply Ditch within the ditch easement. Four water birch specimens that were identified on the site visit between representatives of the Home Supply Ditch Company and Town Staff on 11/12/09 are to be preserved on the south side of the ditch upon final approval by the Home Supply Ditch Company Board of Directors.

3. There shall be no designated parking spaces, except for handicap spaces on the public streets, spaces on the individual single-family ~~and duplex~~ lots, and carshare spaces. This shall be a requirement of the declaration of protective covenants.
4. The Applicant shall apply for and be annexed into the Basalt Sanitation District prior to the issuance of the first building permit in the development. Acceptance into the Basalt Sanitation District shall be contingent on obtaining final annexation approval.

5. The Town contracted with Economic and Planning Systems (EPS) to develop an economic model to study the fiscal impacts of the development on the Town. The Applicant shall reimburse the Town for the cost of having EPS conduct the study.
- ~~6. The residential units above the daycare shall be limited to one bedroom units to limit parking demands around the daycare for uses other than the daycare.~~
7. The Applicant shall dedicate the alleyways to the Town on the Master Plat, but the Applicant shall also enter into a perpetual maintenance agreement requiring the HOA to maintain the alleyways, including but not limited to snowplowing and resurfacing. This maintenance agreement shall be drafted by the Applicant and reviewed by the Town Attorney and Public Works Director and recorded prior at the County Clerk and Recorder's Office in conjunction with recording the PUD control document.
- ~~8. The Applicant shall amend the site plan to include a five (5) foot wide sidewalk on the south side of South Park Drive.~~
- ~~9. The Applicant shall submit new street names to replace South Park Drive, North Park Drive, and Apartment Street that do not conflict with other street names in Eagle or Pitkin Counties for review and approval by TRC prior to recording the Master Subdivision Plat.~~
10. Development in the rights-of-way shall occur as approved in the Final PUD plan, but the Town reserves the right to make future improvements in the rights-of-way as deemed appropriate and shall not be bound by limits established in the PUD.
11. The Applicant shall install removable bollards in the Allison Lane vehicular connection with a Knox box meeting the Fire District's requirements. The area between the bollards shall be maintained for a through access during the winter by the Town. (Town will discuss further with Fire District prior to Council's review.)

PHASING AND APPROVAL DOCUMENTS

1. The Applicant shall enter into a PUD control document with the Town within 180 days of the effective date of the Final Plan ordinance for Phase I, adopting the terms and conditions of the development and providing security for the common public improvements associated with the development. The Applicant shall also record a Master Plat/Annexation Map and Final PUD Development Plan with the Pitkin County Clerk and Recorder's Office within 180 days of the effective date of the Final Plan ordinance.

A note shall be included on the Final Annexation Map indicating that the area of annexation has been refined from the legal description included on the original annexation petition, yet represents the development proposed in the annexation petition that was approved for annexation eligibility pursuant to Resolution No. ~~14 5~~, Series of ~~2016 2006~~ and to be in substantial compliance with the annexation requirements pursuant to Resolution No. ~~2~~, Series of 2006.

The PUD control document, Master Plat/Annexation Map, and PUD Development Plan shall be reviewed by the Town Attorney for approval of form and content prior to recording. The PUD control document, Master Plat, and PUD Development Plan shall be recorded prior to commencing the installation of infrastructure and prior to the issuance of the first building permit in the development. The Applicant shall also prepare deed restrictions for the community housing units for review and approval by the Town Attorney prior to the recording of the PUD Control Document.

An individual subdivision plat shall be submitted for each phase prior to closing on the sale of any lots or developing on any of the lots in each phase. ~~The individual phase subdivision plats shall be reviewed and approved by the TRC prior to recording. If the TRC finds that an individual subdivision plat that is submitted is inconsistent with the approvals established herein, the Applicant may request that such determination be appealed to the Town Council to be reviewed at a duly noticed public hearing. For the purposes of the phasing approvals, the term "filing" shall mean the same as a "phase" as identified on the Applicant's proposed phasing plan prepared by Sopris Engineering, dated July 28, 2009.~~

- ~~2. The following improvements shall be required as part of the Subdivision Improvements Agreement for any filing prior to closing on the sale of any lots within the filing to be recorded in conjunction with filing the subdivision plat for an individual filing:
 - ~~a. Pedestrian crossing improvements at corners and a pedestrian link to the block being developed; and,~~
 - ~~b. Two driving lanes adjacent to the blocks being developed; and,~~
 - ~~c. Alley improvements within the blocks being developed as proposed by the Applicant, with addition that the alley shall only be gravel for one year from the issuance of the first building permit within the block; and,~~
 - ~~d. The parking lot and drive west of the multi-family Blocks 1A, 1B, and 1C may be phased as proposed in the Applicant's phasing plan except that it may only be gravel for up to one year after the issuance of the first single-family building permit or the first CO on a multi-family building, whichever is earlier; and,~~~~

- e. ~~Parking on both sides of the street adjacent to the blocks being developed; and,~~
- f. ~~Concrete curb and gutter on both sides of the street adjacent to the blocks being developed; and,~~
- g. ~~All utility lines brought to the blocks being developed, including potable water, raw water, electric, telephone, communications, gas, and cable; and,~~
- h. ~~Sewer improvements adjacent to the blocks being developed, and all downstream sewage conveyance facilities of the block being developed; and,~~
- i. ~~Signage and striping; and,~~
- j. ~~Stormwater improvements adjacent to the block being developed, and all downstream stormwater conveyance facilities to convey stormwater to, and including, detention facilities.~~
- k. ~~Landscaping shall be installed pursuant to the timing established in No. 4 below.
Sidewalks shall be installed pursuant to the timing established in No. 4 below~~

~~In conjunction with each filing, the Applicant shall submit an individual site control plan for each filing for review and approval by the Town Engineer and the Public Works Director. The site control plan for each filing shall include the status of site grading, top soil removal, structural fill placement, locations for stockpiling of material, storm water drainage and detention, weed control and interim reseeding (where necessary to control dust and erosion where alternate measures are not satisfactory), sediment control, dust control, ditch relocation issues, and public safety concerns. The intent of the site control plan review is to provide for appropriate mitigation measures in recognition of the fact that heavy equipment, grading and site disruption will be occurring for a period of several years.~~

- 3. ~~Sidewalks and street landscaping shall be installed, and accepted by the Town Engineer in the rights of way adjacent to the blocks being developed prior to closing on the sale of any lots on a block and prior to the issuance of a CO on any of the units within the block. However, up to five (5) individual owner/builder lots in each phase are exempt from the above requirement and may be sold prior to the completion of sidewalk and street landscaping. Sidewalks adjacent to the South and North Parks shall be constructed in conjunction with construction of the landscaping improvements in the parks. Additionally, the eight (8) foot wide sidewalk running north and south adjacent to Cross Street shall also be installed and completed in conjunction with the completion of all of the required park improvements in North and South Parks so that there is a connection between the parks upon their completion.~~

~~4. The Applicant shall be required to construct and obtain a core and shell CO and dedicate the public facility with a daycare priority on Block 9 prior to the Applicant obtaining a building permit to construct the 59th unit in the development (equates to the daycare being required prior to half of the units obtaining a building permit in Phase 2 of the development).~~

~~The Town may construct the permanent daycare facility earlier than the second filing at the Town's cost.~~

6. The Applicant shall complete all of the proposed park improvements (including all landscaping, trails, one stormwater detention facility, the ditch improvements, pond, irrigation piping, and adjacent sidewalk and parking) in North Park within three (3) years of final approval prior to recording the plat for the second filing in the development.
7. In the event that the Tennis Center is not built, the Applicant shall complete all of the proposed park improvements (including all landscaping, trails, one stormwater detention facility, the ditch improvements, the adjacent sidewalk and parking, the public facilities/storage, and the courts) in South Park prior to the earlier of the Applicant obtaining a building permit on the 59th unit half the units in the development (equates to the park improvements being required prior to the Applicant obtaining a building permit on half the units in Phase 2 of the development) or prior to the issuance of any building permit in Block 10 of Phase IV or on Lots 3 or 4 of Block 11 in Phase V of the development.
8. The Applicant shall construct a chain link fence (consistent in design and materials with the existing chain link fence between the High School and the Cerise property) at the eastern boundary of the property to protect the adjacent agriculture land prior to commencing any construction activities on the site. The fence shall be maintained after construction, but the abutting property owners may construct an internal fence meeting the guidelines in the PUD.
9. *Dependent on Applicant's final negotiation with the School District.* The two (2) units for School District employees shall obtain COs, be deed restricted as Category 3 units, and then be deeded to the School District before the issuance of COs on half the units in the development any units in the third block to be developed on within the development.
10. The category level units and RO units with appreciation caps shall be constructed at a proportional rate with the RO units without appreciation caps and free-market units (if any are approved). For example, since the number of category-level and RO units with appreciation caps equal at least 25 30% of the units within the project, at least three (3) category-level or RO units with appreciation caps shall be constructed and obtain COs out of every ten (10) total units developed within the project.

11. ~~The multi-family Blocks 1A, 1B, and 1C shall remain in a single ownership until such time as the last of the multi-family buildings on these blocks is completed and obtains a CO. All of the multi-family buildings on Blocks 1A, 1B, and 1C shall be constructed and obtain a CO prior to the recording a plat on the third filing in the development to ensure that the Southside Drive streetscape is completed. Any future subdivision will be subject to the then-current subdivision regulations.~~
12. ~~The roundabout on timing and Applicant's responsibilities or proportional costs for construction of the roundabout or traffic-calming improvements determined necessary by Town Council for Southside Drive shall be determined during Final Plan review of the multi-family units installed and completed as part of the 1st phase improvements and within the first summer of infrastructure improvements. The Applicant shall submit and implement a detour plan for pedestrians, bicyclists, and vehicular traffic acceptable to the Town Engineer to safely and efficiently move pedestrian, bicyclists, and vehicles around the roundabout construction prior to commencing construction on the roundabout.~~
13. The irrigation pond and irrigation piping shall be installed in the 1st phase of improvements and prior to the issuance of the first building permit within the development.
14. ~~The Applicant shall make arrangements to continue temporary storage at the Applicant's cost for the Nordic Council's equipment on the site until the new storage facility is completed in South Park.~~
15. Up to four (4) model units that are not inhabited may be exempted from the phasing requirements by the TRC.
16. If there are any insubstantial changes to the project's phasing plan during construction, a revised phasing plan shall be submitted for review by the TRC. Any minor deviations from the requirements of the approved phasing plan require approval by the TRC and shall be documented by the issuance of a TRC Certificate. If the TRC finds that a change is not insubstantial, the change shall require approval by the Town Council.
17. ~~If the Applicant is constructing their infrastructure when the Town is ready to develop Parcel C of Basalt Design District, the Applicant will grade and install utilities for the project at their cost. Alternatively, if the Applicant has completed infrastructure improvements on their site but is still doing vertical construction when the Town is ready to develop Parcel C, the Applicant shall provide the Town with a legitimate construction bid for the vertical construction on Parcel C. The bid shall be a market rate bid that is discounted by 100% of the staging costs, except that the Applicant may include justified "specialty staging costs" in their bid at the discretion of the~~

~~TRC. For the purpose of this condition, "specialty staging costs" shall be defined as the staging costs associated with the need to bring in specialty equipment that is not staged at Stott's Mill at the time of construction on Parcel C of Basalt Design District.~~

18. The Applicant shall provide financial security in a form acceptable to the Town Attorney, in an amount sufficient to secure all of the improvements within both North and South Parks (2009 Landscape Plan), ~~and the Southside Drive roundabout~~ within the development plus a ten (10%) percent contingency in conjunction with filing the master plat and PUD plan. Prior to the issuance of the first building permit or closing on the sale of any lots in an individual block, whichever is earlier, the Applicant shall prepare and record a subdivision plat for the individual block or blocks that are being developed.

In conjunction with filing the subdivision plats on the development ~~phases~~ individual blocks, the Applicant shall be required to put up sufficient financial security in a form acceptable to the Town Attorney for the public improvements in the phase block. If the Applicant is proposing to develop multiple blocks ~~phases~~ at once, they shall be allowed to record multiple phase block subdivision plats at once, but they would need to put up security for the public improvements on all of the phases blocks being platted.

The Town may draw on the financial security posted for the public improvements to install any incomplete public improvements or restore the site to an acceptable condition if at any time after the commencement of construction activities the Town Engineer determines that the project or a portion of the project has been abandoned. Abandonment for the purpose of administering this condition shall mean that the Applicant has started improvements, but has stopped all construction activities on the site for a period of more than six (6) months.

No more frequently than once every quarter, Applicant shall be entitled to partial releases or reductions of the Performance Guaranty as portions of the Improvements are completed and approved. In order to obtain a partial release or reduction of the Performance Guaranty, Applicant shall submit a Certificate of Partial Completion signed by an engineer licensed in the State of Colorado or other appropriate professional acceptable to the Town describing the portion of the Improvements completed, and the cost allocation associated with such completed improvements.

VESTED RIGHTS AND CONTRACTUAL PHASING

1. Vested property rights shall be granted for a period of three (3) years from the effective date of the ordinance approving the final annexation. The Applicant

may request an extension of vested rights and an amendment to the contractual phasing requirements pursuant to the process for extending vested rights as established in the Town Code. The Town Council may consider the strength of the local housing market and construction lending environment in considering a request to extend the vested rights and contractual phasing time period.

~~All of the public improvements required in Phases 1 and 2 of the development with the exception of South Park, including the construction of the roundabout, all of the North Park improvements, all of the South Park improvements, and the core and shell of the daycare facility shall be completed within the three (3) five (5) year vested rights period. If all of these improvements are not completed to the satisfaction of the Town within the five (5)-year vested rights period, then no further building permits shall be issued except on owner/builder lots within the development and no additional plats shall be filed within the development unless the Town Council extends the vested rights period. Additionally, if the Applicant does not complete the Town's required Phase 1 and 2 improvements within the three (3) -five (5) year vested rights period, the Town reserves the ability to unilaterally rezone the property or change the allowable uses within the PUD. Buildout shall occur in seven (7) years after infrastructure installation with the ability for the Applicant to come back and ask for an extension from the Town Council.~~

ATTACHMENTS TO AUGUST 16 STOTT'S MILL MEMORANDUM

1. August 10, 2016 Memorandum from Mark Chain Consulting, LLC
2. Plan Comparison of Option A: Applicant's 2,410 footprint and Option B: Preferred Layout with 4,179 Footprint from Dustin Anderson, PEAK Architects
3. 2009 Approved Park Plan for South Park
4. Traffic Report Excerpts – SGM 7/15/2006
5. Southside Drive Cross-Section Recommended by POST

August 10, 2016

James Lindt, Assistant Planning Director
Town of Basalt
101 Midland Avenue
Basalt, CO 81621

RE: Stott's Mill – Updated Affordable Housing Plan
Other Submittals

Dear James:

We are providing an updated Affordable Housing Plan, a proposed condition related to traffic mitigation and comments on other issues as a result our recent Technical Review Committee meetings and conference calls with SGM related to traffic issues in the Southside Area. We have tried to keep our comments succinct and to the point. They are as follows:

Traffic Mitigation. These comments are being provided under separate cover by Yancy Nichol, Project Engineer for Stott's Mill.

Affordable Housing. Stott's Mill will provide affordable housing in compliance with the Town's Housing Guidelines - 20% of the number of units in 25% of total square footage. The following units are proposed:

- 20 multifamily units (rental)
- 10 single-family lots or single-family "for sale" constructed units.

The rental units will follow the progression of the number of units outlined in the Housing Guidelines. The intent is to place five rent capped units in each of the four multifamily buildings. The number of units within each category is provided on the attached spreadsheet. The single-family lots or single-family constructed units will be spread throughout blocks 1 through 4 with at least two affordable units in each block. The Affordable Units will be provided on 28 foot wide lots. Stott's Mill has been in conversations with Habitat and is reaching out to other groups. We know the town is also talking other organizations. At this point we don't think anyone knows exactly the optimum mix for the town and or the Developer in terms of then ratio between vacant lots or fully constructed units. We think this will evolve over the next few months and would like to keep the conversation open. We also know the Council will want to comment and provide further direction.

Day Care. Attached is a site plan from the project Landscape Architect, Rich Camp. As we have discussed before, the bottom floor of lot 37 is being dedicated as a Day Care facility. Lot 38 is being shown as the open space/play area for the day care. An apartment on the second floor of the day care facility is being proposed to be occupied by the manager of the multifamily complex. Please note that in the project approval language will need to be finalized which discusses what happens if the daycare use goes away.

Tennis Center. The video showing design of the tennis center facility has been sent previously to you.

Please contact us if you need additional information or wish to discuss the proposal prior to the August 16 hearing.

Sincerely,

Mark Chain

Mark Chain, Planner

**AFFORDABLE HOUSING RENTAL UNITS
STOTT'S MILL: LOCATED IN MULTIFAMILY COMPLE**

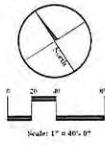
	AH Category	# BR	Max Rent	# Units	Approx Size	Total SF
80% AMI	1	1	\$ 1,327	3	700	2,100
	1	2	\$ 1,410	3	900	2,700
100 AMI	2	1	\$ 1,785	4	700	2,800
	2	2	\$ 1,897	4	900	3,600
120% AMI	3	1	\$ 2,119	3	700	2,100
	3	2	\$ 2,172	3	900	2,700
Totals				20		16,000

- Notes
1. Plan is to locate 5 "affordable" rent capped units in each multi-Family Building
 2. SF estimates are Approximate. Subject to Final Design



Plant Key

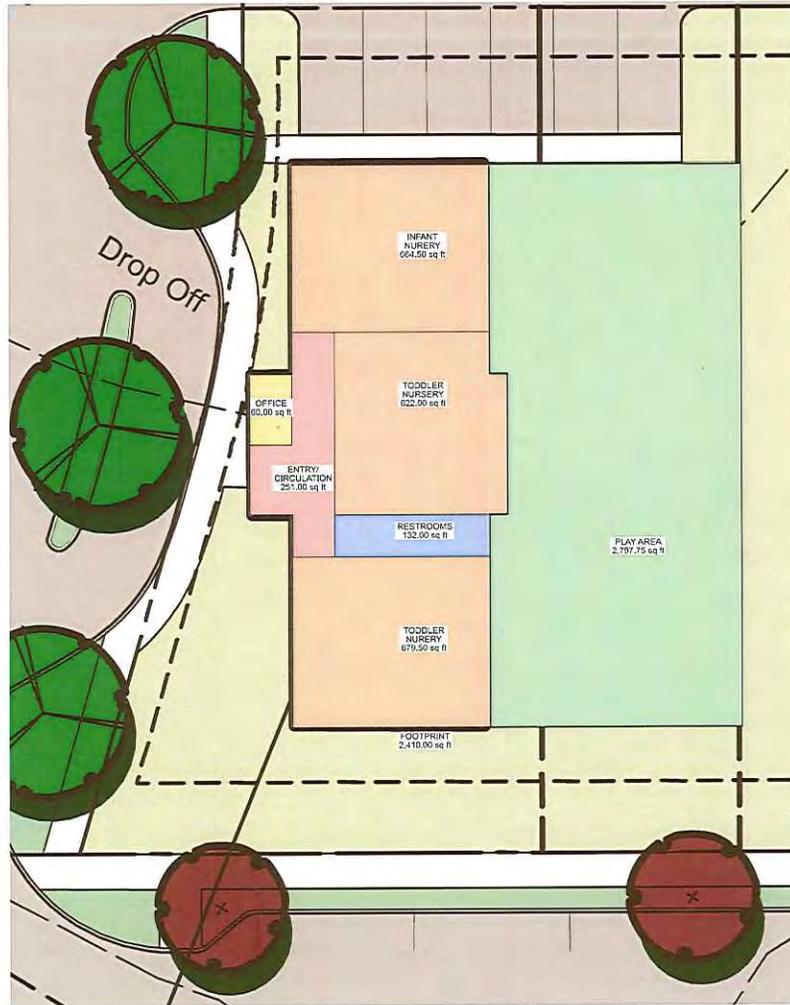
Symbol	Quantity	Common Name / Botanical Name
(Green circle)	44	Colorado Spruce / <i>Picea pungens</i>
(Light green circle)	15	Ponderosa Pine / <i>Pinus ponderosa</i>
(Yellow circle)	41	Norway Maple / <i>Acer platanoides</i>
(Light yellow circle)	40	Sterling Silver Linden / <i>Tilia tomentosa</i>
(Yellow-green circle)	7	Golden Weeping Willow / <i>Salix alba 'Tristis'</i>
(Light green circle)	31	Shademaster Honeylocust / <i>Gleditsia trilobocanthus inermis</i>
(Light green circle)	21	Narrowleaf Cottonwood / <i>Populus angustifolia</i>
(Light green circle)	38	Crimson Sentry Norway Maple / <i>Acer platanoides</i>
(Light green circle)	12	Spring Snow Crabapple / <i>Malus sp.</i>
(Light green circle)	24	Radiant Crabapple / <i>Malus sp.</i>
(Green circle)	10 Acres	Native Grass Seed
(Green circle)	2.3 Acres	Bluegrass Seed



Conceptual Landscape Plan
Stott's Mill P.U.D.
 Basalt, Colorado

Date: January 21, 2016
 Revised: July 27, 2016

Sheet:
L-1



OPTION A - LAYOUT WITH APPLICANT'S 2,410 SF FOOTPRINT

1/8" = 1'-0"



OPTION B - PREFERRED LAYOUT WITH 4,179 SF FOOTPRINT

1/8" = 1'-0"



OPTION B - PREFERRED LAYOUT WITH 4,179 SF FOOTPRINT

1" = 20'

STOTT'S MILL - EARLY LEARNING CENTER
 CONCEPTUAL LAYOUT PLANS - 8.4.2016



PROPOSED
 SITE PLAN

**Table 1
Baseline Intersection Level of Service Summary**

Intersection	AM		PM	
	LOS	DELAY ₁ (s)	LOS	DELAY (s)
SH 82 & Basalt Avenue	D	39.3	D	41.0
Cody Lane & Basalt Avenue	A	6.0	E	56.5

1 – Delay expressed as average delay per vehicle in seconds/vehicle.

As the table shows, the intersections within the study area currently operate within acceptable standards. Detailed operational results for the signal are provided in the appendix that show the MOE's by movement on each approach on Table A1.

Although the stop-controlled intersection south of the highway is shown to operate with low average delays, intersection blockage is common at Cody/Basalt during the peak hours of most weekdays. However, the northbound green phase generally allows the Cody/Basalt intersection to clear each cycle. The signal cycle currently operates in "split-phase" mode throughout the day, allowing southbound and northbound traffic separate green phases with the pedestrian crossing phase occurring during the lagging northbound green phase. The existing peak hour cycle length of 180 seconds is set by CDOT to maximize highway flows and minimize delays for the predominant direction during the peak hour.

The following table shows the baseline analysis 95th percentile queue lengths estimated by the Simtraffic model.

**Table 2
Baseline 95th Percentile Queue Summary**

SH 82 & Basalt Avenue	AM	PM	Available Length (ft)
Northbound Approach	163'	174'	180'
Eastbound Approach (Left)	331'	279'	370'
Southbound Approach	227'	160'	110'
Westbound Approach (Left)	151'	167'	370'

The 95th percentile queue length represents the maximum queue length that occurs during 95% of the hour, so there may be times when it is exceeded for a short period of time. As the baseline model results show, the 95th percentile queue lengths for the northbound approach do not exceed the available storage length (but they are close), while the southbound queue lengths exceed the available storage length of 110' and spill into the roundabout during both peaks. Eastbound and westbound left turns are predicted to be accommodated in the turn lanes provided. There is room in the median of the highway to restripe these turn lanes to allow more storage in the future, if necessary.

5.4. Improved Baseline Intersection Capacity and Queuing Analysis

The proposed pedestrian underpass project will improve existing operations at the signal by removing the pedestrian phase, restriping the northbound approach to allow for a shared left-through lane and an exclusive right turn lane, and adjusting the split-phase signal operations to be permissive for northbound and southbound approaches. With these changes, the intersection is estimated to operate with about 18 seconds less overall delay in the AM peak (LOS C) and about 12 seconds less overall delay in the PM peak (LOS C) than it does today. The following tables show the results of the capacity and queuing analyses using existing volumes and

assuming the above laneage and phasing changes occurring with the underpass project. Although not shown in the table below, the intersection of Cody/Basalt operates at acceptable levels of service during both peaks with the underpass.

Table 3
Improved Baseline Scenario
Intersection Level of Service Comparison

SH 82 / Basalt Avenue Intersection - Approach Performance		2015 PERFORMANCE COMPARISON TABLE A1												
		OVERALL	Eastbound			Westbound			Northbound			Southbound		
			LEFT	THRU	RIGHT	LEFT	THRU	RIGHT	LEFT	THRU	RIGHT	LEFT	THRU	RIGHT
2015 AM Peak	LOS	D	F	C	A	F	C	A	E	F	E	E	E	A
Baseline	Delay	39.3	81.5	32.5	7.7	117.1	26.3	3.6	72.5	86.4	55.6	73.5	63.8	5.3
	Queue		331	526	85	151	142	30	113	163	163	188	227	62
2015 AM Peak	LOS	C	D	B	A	E	B	A	C	C	B	D	C	A
w/ Underpass	Delay	21.3	45.8	18.6	7.2	58.5	13.1	2.3	31.8	28.5	18.8	44.0	32.6	4.1
	Queue		191	965	73	84	83	16	94	94	94	143	163	25
2015 PM Peak	LOS	D	F	B	A	F	C	A	F	F	E	F	E	C
Baseline	Delay	41.0	93.0	15.4	3.2	108.4	33.1	9.5	98.3	107.6	62.9	89.4	74.7	33.8
	Queue		279	149	41	167	1309	248	146	174	174	126	160	100
2015 PM Peak	LOS	C	F	B	A	D	C	A	D	D	A	D	C	B
w/ Underpass	Delay	28.5	85.3	12.1	3.4	50.3	26.7	9.0	48.5	46.6	7.0	42.6	34.0	19.3
	Queue		223	108	46	79	406	53	152	152	63	82	86	54

Signal runs actuated-uncoordinated with protected-only phasing for mainline left turns
95th Percentile Queues exceeding available storage shown in BOLD
Simtraffic Results - CDOT Existing Cycle Length of 180 Seconds

7/15/2016

1 – Delay expressed as average delay per vehicle in seconds/vehicle.

As Table 3 above shows, the signal will operate with less delay when the underpass is installed and the northbound laneage is reassigned. The northbound and southbound approaches show the greatest improvements in reduction of average delays when the underpass is in place. The following table shows the estimated queue lengths for the improved baseline scenario when the underpass is in place.

Table 4
Improved Baseline 95th Percentile Queue Summary

SH 82 & Basalt Avenue	AM	PM	Available Length (ft)
Northbound Approach	94'	152'	180'
Eastbound Approach (Left)	191'	223'	370'
Southbound Approach	163'	86'	110'
Westbound Approach (Left)	84'	79'	370'

As Table 4 and Table A1 of the appendix show, the queue lengths are reduced when compared to the Baseline scenario (Table 2 results). The results show the queue lengths all fall within their available lane lengths, with the exception of the southbound approach to the highway during the AM peak hour.

The underpass improvement demonstrates a first, significant step to improving access to the Southside and reducing delays for all intersection users at the SH 82 signal and adjacent intersections.

6.0 20-Year Traffic Conditions (2035)

The Town of Basalt has developed a 20-year development plan for the Southside that reflects active land use proposals and plans developed through discussions with stakeholders. For the purpose of this study, SGM will assess all proposed 20-year buildout of the Southside in one scenario.

New traffic turning to and from the highway or crossing at Basalt Avenue was increased using land use estimates and ITE trip rates for specific development proposed for the Southside. Traffic entering and leaving the Southside was assigned using the existing turning splits occurring at the SH 82 signal to estimate percentages turning up or down valley or crossing the highway during the AM and PM peak hours. Through movements at the signal (not influenced by the Southside 20-year development plan or the Roaring Fork Apartments) were increased using CDOT's 20-year factor of 1.35. The following sections detail the development of the peak hour volumes for the 20-year development scenario.

6.1. Traffic Generation (20-Year Plan)

According to the Town of Basalt Planning Department, several southside parcels are planned for development in the next twenty years. These parcels are color coded in Figure 6 below and include:

- Cathers East (16 Multi-family units, 1,800 SF Commercial / Orange)
- Cathers West (32,000 Industrial / Orange)
- Schlumberger (8,000 SF Industrial, 3 Multi-family units / Yellow-green)
- Skico Industrial/Housing parcel (10,000 SF Industrial, 3 Multi-family units / Blue near 82)
- Basalt Design District Housing (80 Multi-family units, 23,700 SF office / Light green)
- Basalt Mini Storage (81,600 sf of Mini warehousing / Green)
- Southside PUD (11 Single-family units / Red)
- Stott's Mill (56 Single-family units, 90 Multi-family units / Gold)
- Skico Housing (24 Multi-family units / Blue)
- RE-1/Habitat for Humanity (40 Multi-family units / White)

And the northside proposed development parcel includes:

- Roaring Fork Apartments (56 Apartment units / Yellow)

Some of the development potential identified above is projects that have submitted development applications such as Stott's Mill and the Basalt Mini-Storage expansion. Others are projections from the Town's Master Plan. Actual development proposals by these other projects could be lower or higher with regards to project scope.

**Table 7
Buildout Baseline
Intersection Level of Service Summary**

Basalt Avenue / SH 82 Intersection - Approach Performance	2035 PERFORMANCE SUMMARY						
			OVERALL	EB App	WB App	NB App	SB App
	2035 AM Peak	LOS	D	D	C	E	E
<i>Buildout Baseline</i>	Delay	41.3	38.6	27.3	65.3	57.9	
2035 PM Peak	LOS	E	F	E	E	D	
<i>Buildout Baseline</i>	Delay	73.9	83.9	74.0	67.0	45.8	
<i>Signal runs actuated-uncoordinated</i>							
<i>Simtraffic Results - CDOT Existing Cycle Length</i>							
							7/7/2016

1 – Delay expressed as average delay per vehicle in seconds/vehicle.

As Table 7 shows, the intersection is forecast to operate acceptably in 20 years during the AM peak but not the PM peak (LOS "E"). Based on the applied CDOT growth rates and site specific traffic generation, this is to be expected along the highway within the mid-valley area as SGM found in other recent studies along the SH 82 corridor (The Fields, Eagle County). The forecast 20-year increase in most areas has shown that over-saturated (LOS "F") conditions are likely to exist along the corridor during peak hours without the addition of lanes to the highway or the implementation of additional transportation demand measures like transit, bike commuting, and ride sharing options.

Table 8 summarizes the 95th percentile queue lengths estimated for the Buildout Baseline scenario.

**Table 8
Buildout Baseline
95th Percentile Queue Summary**

SH 82 & Basalt Avenue	AM	PM	Available Length (ft)
Northbound Approach	196'	157'	180'
Eastbound Approach (Left)	414'	438'	370'
Southbound Approach	218'	169'	110'
Westbound Approach (Left)	165'	620'	370'

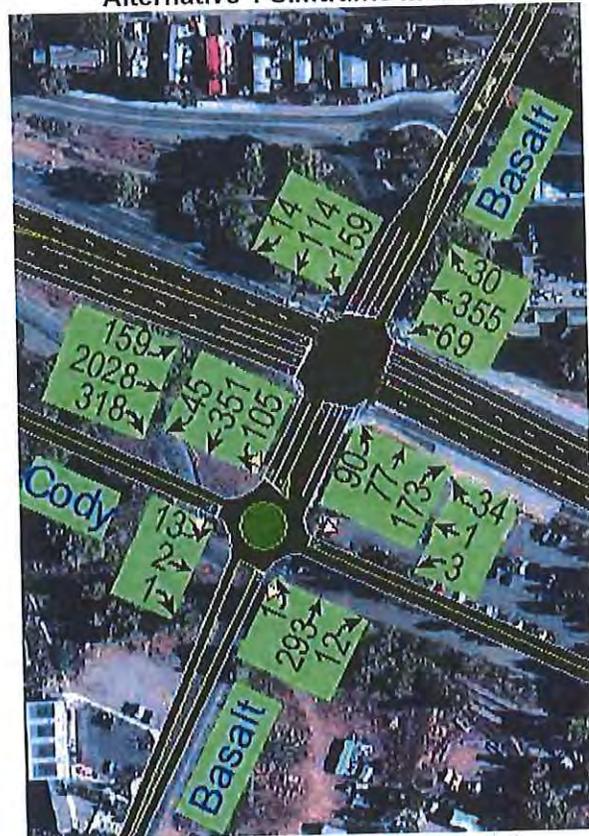
As Table 8 shows, the additional traffic from background and Basalt parcels will create queue lengths at the signal that will exceed the available storage length that exists today on all approaches during most peak hours. Of significance to Southside development, the westbound left turn queue increased from 79' in the Improved Baseline scenario (Table 4) to 620' in the Buildout Baseline scenario as a result of the increased traffic demand on the Southside. Additionally, the northbound queue is estimated to extend through the Cody Lane intersection in the Buildout Baseline scenario, whereas it did not extend through this intersection in the Improved Baseline scenario (increases from 94' to 196' in AM peak). These increases show the effects of additional traffic demand from Southside developments on the current system.

Improvements to the left turn lanes on the highway could be accomplished easily by restriping the proper lengths within the paved medians. There is about 700' of pavement available for the westbound left turn lane and 800' available for the eastbound left turn lane if they were extended to the existing median barrier sections on the highway.

Figure 13
Alternative 1 Improvement Plan



Figure 14
Alternative 1 Simtraffic Model



Alternative 1 may require a small Right-of-Way (ROW) take from the Cathers West parcel, although the preliminary plan shown in Figure 13 fit within the existing ROW of Basalt Avenue and CDOT. This improvement could also provide safer crossings for pedestrians at Cody Lane using the splitter islands of the roundabout. The underpass plans were developed to include this improvement without major changes to the underpass approach south of SH 82 or the traffic signal poles. This improvement would cost less than \$1M to construct.

7.2 Alternative 2 – Split-Tee Intersections

Alternative 2 consists of a split-tee intersection that creates two signalized "Tee" intersections with SH 82 at Midland Avenue and at Basalt Avenue. These would separate turning movements to the north and south side of the highway and the signals could be timed as a system for efficiency. However, this alternative requires relocating the north leg of Basalt Avenue to Midland, while relocating Emma Road potentially through the Roaring Fork Mobile Home Park. The property impacts to the north including less direct access to the commercial uses along Emma Road may screen this alternative out. An option for a split-tee would be to "flip it" and leave the north Tee at Basalt and move the south Tee to Southside Drive. This would require realignment of Cody Lane near Southside Drive and provide less direct access to the highway for businesses along east Cody Lane. It would also create overlapping left turns between Basalt and Southside, which limits the available storage length to the distance between the intersections (less than 600').

Figure 15
Alternative 2 Simtraffic Model



Alternative 2 was analyzed in the configuration shown above. In addition to the relocation of Emma Road east of Midland, Emma Road will need to be relocated west of Midland to connect to Gisella Way, north of the Post Office. Additional impacts at the relocated intersections were not fully studied for this alternative. Alternative 2 would require amending CDOT's Access Control Plan.

7.3 Alternative 3 – Underpass at Midland Avenue/Southside Drive

Alternative 3 consists of a vehicular and pedestrian underpass connecting Midland Avenue with Southside Drive. This alternative provides additional access to the Southside but avoids having to be granted new access to the highway. Alternative 3 is shown in Figure 16.

Figure 16
Alternative 3 Improvement Plan



The improvement plan shown in Figure 16 includes an on- and off-ramp for eastbound SH 82, which would require amendment to the Access Control Plan. As considered for this study, no access will be provided to the highway for this alternative beyond the existing access at Basalt Avenue, so these ramps were not considered a part of this improvement. For the purpose of the traffic model, the through volumes crossing the highway at the Basalt Avenue intersection (north- and southbound traffic) were reassigned to the underpass, and removed from impacting the signalized intersection. The signal will not prohibit through movements, but it is likely that the majority of travelers will use the underpass to get across the highway rather than wait at the signal. A cost estimate of this concept was not developed for the Town, but based on the current underpass construction budget, it would be significant.

8.0 Alternative Analysis Capacity and Queuing Results

Using the 20-year buildout volumes shown on Figures 11 and 12, the capacity analysis was run in Synchro to determine level of service and delay for the signalized intersection under each of the alternatives. The following tables show the overall results of the capacity analysis for the signal at SH 82 and the 95th percentile queuing results for the two alternative improvement scenarios.

**Table 9
20-Year Buildout Alternatives Level of Service Summary**

		2035 PERFORMANCE SUMMARY					
		OVERALL	EB App	WB App	NB App	SB App	
Basalt Avenue / SH 82 Intersection - Approach Performance	2035 AM Peak	LOS	D	D	C	E	E
	<i>Buildout Baseline</i>	Delay	41.3	38.6	27.3	65.3	57.9
		Queue					
	2035 AM Peak	LOS	D	C	C	D	E
	<i>Alternative 1</i>	Delay	35.4	32.0	25.1	51.5	61.5
		Queue					
	2035 AM Peak	LOS	D	C	B		F
	<i>Alternative 2</i>	Delay	39.5	28.5	11.5		181.1
		Queue					
	2035 AM Peak	LOS	C	C	C	D	E
	<i>Alternative 3</i>	Delay	32.1	30.5	23.3	49.6	57.2
		Queue					
	2035 PM Peak	LOS	E	F	E	E	D
	<i>Buildout Baseline</i>	Delay	73.9	83.9	74.0	67.0	45.8
	Queue						
2035 PM Peak	LOS	E	D	E	F	D	
<i>Alternative 1</i>	Delay	68.4	53.3	71.1	94.7	49.7	
	Queue						
2035 PM Peak	LOS	F	A	F	D		
<i>Alternative 2</i>	Delay	113.7	7.3	159.7	53.3		
	Queue						
2035 PM Peak	LOS	D	D	D	D	D	
<i>Level 4 Improvements</i>	Delay	40.5	41.5	38.8	51.3	39.0	
	Queue						
<i>Signal runs actuated-uncoordinated</i>							
<i>Simtraffic Results - CDOT Existing Cycle Length</i>							

7/8/2016

Figure 15
PROPOSED FIOU LANE SIDEWALK



A future option to improve safety and connectivity is shown conceptually above. This would provide a continuous 10' sidewalk along the south side of Fiou Lane, between Southside and Basalt (along the Basalt Design District frontage). This would allow the pedestrians to avoid the two at-grade crossings of the main access route to the Southside and the High School. Figure 14 shows this simple connection that would include a marked pedestrian crossing for the Meyers driveway and connectivity to the existing sidewalk by the Shell station. This sidewalk and trail connection would significantly improve the pedestrian experience and reduce the interaction of pedestrians, cyclists, and traffic on Fiou Lane and Basalt Ave. The construction cost of this approximate 300' trail connection is under \$50,000.

11.0 Conclusions and Recommendations

The scale of proposed development for the next 20 years on the Southside will create operational deficiencies at the SH 82/Basalt Avenue intersection upon Buildout if no additional capacity improvements are made. Upon buildout and based on conservative assumptions, the proposed Southside development and Roaring Fork Apartments will generate approximately 2,965 external daily trips to/from the Southside, including 252 trips in the AM peak and 301 trips in the PM peak. This equates to a 58% increase in AM peak hour traffic and 123% increase to PM peak hour traffic over today's volumes on the northbound approach.

Two of the proposed developments will require an access permit with CDOT because individually they would contribute 20% or more traffic (over today's volumes) to the northbound approach to SH 82/Basalt Avenue. The State's permitting process would seek improvements from the developer to mitigate the LOS "E" that would exist if nothing were done to improve the intersection or approach in the meantime.

This report explores two potential solutions, with the first (Alternative 1) requiring a less intensive development scenario for the Southside than anticipated in order for the signalized intersection to operate within acceptable standards. CDOT's acceptable standard means LOS "D" overall operations and 95th percentile queue lengths accommodated within the allowable turn lanes provided. Alternative 3 meets all of CDOT's standards with the exception of satisfying the southbound 95th percentile queue needs. Laneage options may be available for

the southbound approach (exiting the Emma roundabout) that were not included in this study. With improvements to the SH 82/Basalt signal operations under Alternative 3, the Basalt Avenue/Cody Lane intersection will function acceptably during peak hours.

Other mitigation solutions that were not explored in depth could include:

- Eastbound slip lanes to and from SH 82 to Cody Lane
- Relocation of the Basalt Avenue/Cody Lane intersection to the south

These options create major property impacts to multiple properties (similar to Alternative 2), and the slip lanes would require amending the Access Control Plan. Both options could improve intersection operations at SH 82/Basalt Avenue, but were not studied due to the excessive property impacts.

A final recommendation this report offers is to construct a sidewalk connection on the south side of Fiou Lane between Southside Drive and Basalt Avenue. This would create a safer connection between the highway and the Rio Grande Trail, which is used heavily by school children, residents, tourists, and others.

SOUTHSIDE TRIP GENERATION TABLE A3

Southside 20-Year Development	Number of Units	ITE Code	Average Weekday Rate	Peak Hour Rates				Average Weekday Traffic	Peak Hour Traffic				% Impact
				AM Entering	AM Exiting	PM Entering	PM Exiting		AM IN	AM OUT	PM IN	PM OUT	
RE-1 Habitat For Humanity	40	230	5.81	0.07	0.37	0.35	0.17	232	3	15	14	7	7.2%
Ski-Co Housing	24	230	5.81	0.07	0.37	0.35	0.17	139	2	9	8	4	4.3%
Stotts Mill Single Family	56	210	9.52	0.19	0.56	0.63	0.37	533	11	31	35	21	35.8%
Stotts Mill Multi-Family	90	230	5.81	0.07	0.37	0.35	0.17	523	6	33	32	15	
Basalt Mini Storage	81.6	151	2.5	0.08	0.06	0.13	0.13	204	7	5	11	11	8.7%
Basalt Design District Multi-Family	80	230	5.81	0.07	0.37	0.35	0.17	465	6	30	28	14	25.8%
Basalt Design District Office	23.7	710	11.01	1.36	0.19	0.25	1.24	261	32	5	6	29	
Southside PUD (Buildout Existing Lots)	11	210	9.52	0.19	0.56	0.63	0.37	105	2	6	7	4	3.8%
Schlumberger Industrial	8	110	6.97	0.81	0.11	0.12	0.85	56	6	1	1	7	3.7%
Schlumberger Multi-Family	3	230	5.81	0.07	0.37	0.35	0.17	17	0	1	1	1	
Cathers West Industrial	32	110	6.97	0.81	0.11	0.12	0.85	223	26	4	4	27	12.7%
Cathers East Multi-Family	16	230	5.81	0.07	0.37	0.35	0.17	93	1	6	6	3	4.6%
Cathers East Commercial	1.8	826	44.32	-	-	1.19	1.52	80	-	-	2	3	
Ski-Co 82 Industrial	10	110	6.97	0.81	0.11	0.12	0.85	70	8	1	1	9	9.9%
Ski-Co 82 Multi-Family	3	230	5.81	0.07	0.37	0.35	0.17	17	0	1	1	1	

323	Residential units												
81.6	ksf Mini storage												
50.00	ksf Industrial												
1.8	ksf Commercial/Retail												
23.7	ksf Office												
TOTAL TRIPS:								3,018	110	147	156	154	
INTERNAL TRIP REDUCTION (15%):								370	9	21	21	15	
TOTAL 2035 EXTERNAL TRIPS:								2,649	100	127	136	138	
TOTALS:										227		274	
CDOT PERMIT THRESHOLD FOR SOUTHSIDE:										442		244	

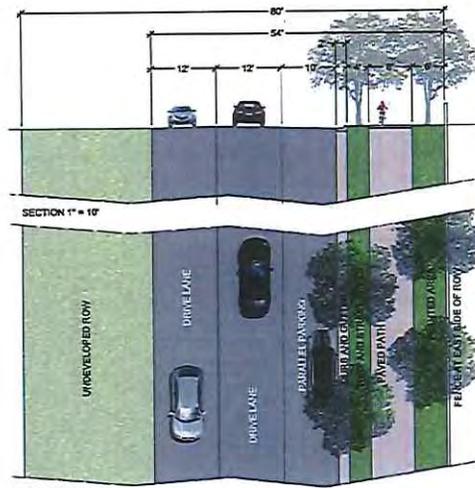
ITE Trip Generation Manual, 9th Edition

ITE Code 110 - General Light Industrial, Units in 1000 SF
 ITE Code 151 - Mini-Warehousing, Units in 1000 SF
 ITE Code 210 - Single-Family Residential, Units in # of dwelling units
 ITE Code 230 - Residential Condominium/Townhome, Units in # of dwelling units
 ITE Code 710 - General Office Building, Units in 1000 SF
 ITE Code 826 - Specialty Retail Center, Units in 1000 SF
 Assumptions:
 Internal Trips: 15% Res, 15% Commercial, 15% Office, 0% Industrial

Northside 20-Year Development	Number of Units	ITE Code	Average Weekday Rate	Peak Hour Rates				Average Weekday Traffic	Peak Hour Traffic			
				AM Entering	AM Exiting	PM Entering	PM Exiting		AM IN	AM OUT	PM IN	PM OUT
Roaring Fork Apartments	56	220	6.65	0.10	0.41	0.40	0.22	372	6	23	22	12
ITE Code 220 - Apartments, Units in # of dwelling units								56	1	3	3	2
TOTAL NORTHSIDE EXTERNAL TRAFFIC:								317	5	20	19	10
TOTAL 20-YEAR EXTERNAL TRAFFIC:								2,965	105	146	155	149

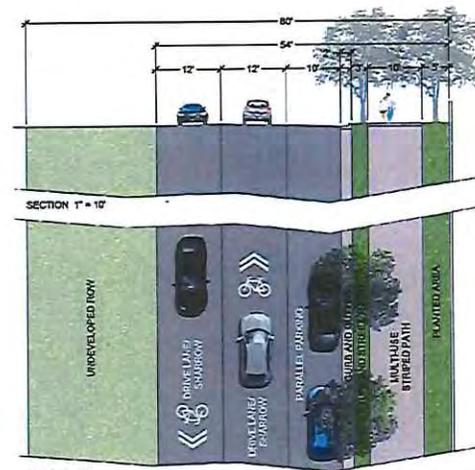


EXISTING AERIAL SCALE: 1" = 40'



SECTION 1" = 10'

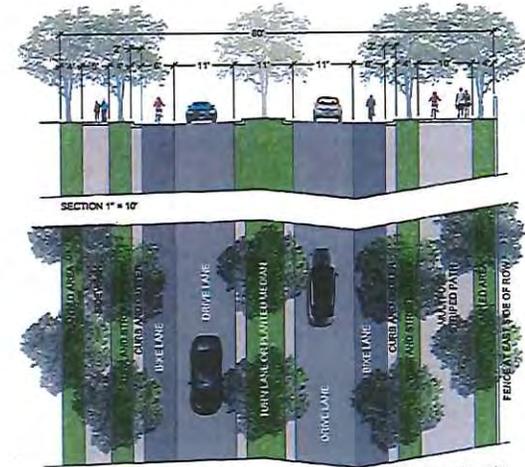
PLAN 1" = 10'
EXISTING CONDITION



SECTION 1" = 10'

PLAN 1" = 10'
LOW IMPACT CONCEPT

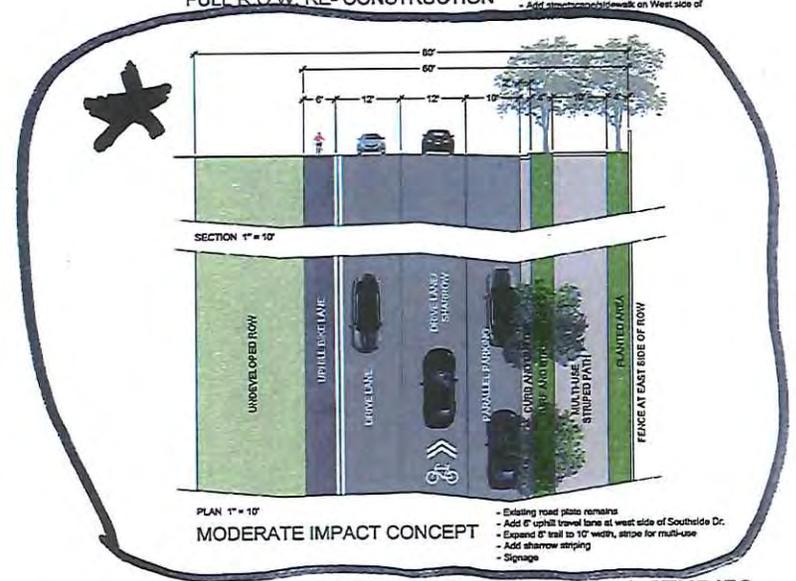
- Existing road plate remains
- Expand 6' trail to 10' width, stripe for multi-use
- Add shoulder striping
- Signage



SECTION 1" = 10'

PLAN 1" = 10'
FULL R.O.W. RE-CONSTRUCTION

- 10' multi-use path east side
- 2' bike lanes
- Reduces travel lanes to 11'
- Add planted center median and turn lanes
- Add structural sidewalk on West side of



SECTION 1" = 10'

PLAN 1" = 10'
MODERATE IMPACT CONCEPT

- Existing road plate remains
- Add 6' uphill travel lane at west side of Southside Dr.
- Expand 6' trail to 10' width, stripe for multi-use
- Add shoulder striping
- Signage

SOUTHSIDE DRIVE- R.O.W. STUDIES

TOWN OF BASALT AND PITKIN COUNTY
JULY 2016

★ - Cross-section recommended by POST

MEMORANDUM

To: Chair and Basalt Planning and Zoning Commission
From: Susan Philp, AICP Basalt Planning Director
Date: August 16, 2016
RE: Municipal Code Amendments Concerning Retail Marijuana Stores and Medical Marijuana Centers

I. Purpose

The purpose is for the P&Z to make recommendations on code amendments concerning the location and number of retail marijuana stores and medical marijuana centers which could be licensed in the Town of Basalt.

II. Background

The Council passed Resolution No. 27, Series of 2016 on July 12, 2016. The Resolution asks that the P&Z be directed to expand the allowable zoning districts where marijuana businesses will be allowed and that Staff be directed to rewrite the current Town Marijuana regulations to allow for four (4) licenses of any type of marijuana businesses. The proposed amendments attached to this memorandum were developed in response to the Town Council's direction.

Town Manager, Mike Scanlon, presented extensive backup to the Town Council on the background and history of marijuana regulations in the Town of Basalt. The packet materials for the Council's July 12th meeting are attached.

Currently Medical Marijuana Centers and Marijuana retail stores are permitted by the Zoning Code in areas zoned Industrial, and also in areas zoned C-3 and P within medical centers, hospitals, or a hospice facility.

The locations where retail marijuana stores and medical marijuana centers can be located are also restricted by the buffers outlined in Chapter 6, Business Licenses and Regulations. This section of the code states that these facilities cannot be located within 1,000 feet of a school; 500 feet of day care facilities and 500 feet of major parks (the measurement now uses "direct pedestrian access") and along a designated school routes. Covenants and specific provisions in PUDs may also restrict the location of these facilities.

III. Proposed Code Amendments.

Exhibits 1 and 2 attached contain the amendments prepared by the Planning Staff and the Police Department.

Exhibit 1 contains amendments to Chapter 16, Zoning to allow retail marijuana stores and medical marijuana centers in areas zoned C-2 Downtown Business District, and C-3 Community Commercial District. Because the Amended Community Serving (CSC) Zone District as recommended by the P&Z allows C-2 uses it is not necessary to amend the CSC Zone District. The licensing provisions in Chapter 6 additionally restrict locations.

The proposed changes to Chapter 6, Business License and Regulations are included in Exhibit 2. The amendments would allow a total of 4 retail marijuana stores or medical marijuana centers to be located within the Town of Basalt of whatever combination (e.g. 4 retail marijuana stores; 3 retail marijuana stores and 1 medical marijuana center; etc.) Staff added additional limitations in order to ensure that any area of Town would not be overly concentrated with marijuana stores/centers, particularly historic downtown or Willits/Orchard Plaza. Other amendments to the licensing provisions are based on lessons learned to date.

IV. Staff Recommendation

Staff recommends that the P&Z consider the proposed amendments drafted by Staff and make recommendations to the Town Council.

Attachments

Exhibit 1 - Amendments to Chapter 16 Zoning)

Exhibit 2 - Amendments to Business License and Regulations

Council's July 12th packet materials

Proposed Changes to the Zoning Code

EXHIBIT 1

Language underlined is being added to the current code and language struck through is being deleted.

Schedule of Uses in C-1 and C-3

Sec. 16-22.	Use	C-1 Neighborhood	C-3 Community
	Retail business/ commercial uses	P	P
	Wholesale business commercial	X	S
	Personal services	P	P
	Automobile sales and services	X	S
	Gas stations	X	S
	Parking lots	S	P
	Fast-food and drive-in restaurant	X	S
	Restaurants	X	P
	Commercial recreation facilities, including pool halls, bowling alleys, clubs, theaters, skating rinks	X	S
	Professional and business offices	S	P
	Hotels and motels	X	P
	Temporary multi-family or lodge	X	S
	Dental or medical clinics	X	P
	Churches	X	S
	School	X	S
	Private education or instructional facility	X	P
	Transportation facilities, terminals	X	P
	Campgrounds	X	S
	Public and governmental facilities	S	S
	Single-family residential units or apartments in conjunction with a business	S	P
	Community centers	X	S
	Banking, savings and loan with drive-up window	X	S
	Multi-family dwellings	X	S
	Mobile home parks	X	S
	Mobile home sales	X	S
	Extraction, processing and transportation of natural resource materials	X	S
	Park and recreation areas	P	P
	Child care and day nurseries	S	P
	Lumberyards	X	P
	Small day care	S	X
	Large day care	S	S
	Small total care	X	X
	Large total care	S	S
	Bed & breakfast establishment	X	X
	Small animal veterinary clinic	X	P
	Adult entertainment establishments	X	X
	Medical center (may include a medical marijuana center or marijuana store if it satisfies the definitions included in the Code and the special review approval)	X	S
	<u>Medical Marijuana Center Premises</u>	<u>X</u>	<u>S</u>
	<u>Retail marijuana store</u>	<u>X</u>	<u>P</u>

Add note 6 below to the notes under the table.

...

6. See Requirements in Section 16-190 and Article V, Chapter 6

P = Permitted use S = Permitted by special review
X = Prohibited

NOTES:

1. For C-2, see Section 16-29, C-2 Downtown Business District.

Table 1
Schedule of Uses in the C-2 Zone District

Use	Use-Specific Standards
Permitted uses	
Retail business	Community vitality use; see Subsection 16-29(c)
Restaurant	Community vitality use; see Subsection 16-29(c)
Hotel and motel	Community vitality use; see Subsection 16-29(c)
Personal services	Community vitality use; see Subsection 16-29(c)
Movie and other theaters, pool hall and game room	Community vitality use; see Subsection 16-29(c)
Professional offices	
Business offices	See Note 2, below, for real estate offices
Banking and mortgage lending	
Offices for public and nonprofit uses	See Paragraph 16-28(3)
Parking garage	See Subparagraph 16-29(c)(4)d.2.
One or two apartments in conjunction with a business	Permitted only on the upper floor(s) of the building; limited to no more than 1,400 sq. ft. per unit ³ . Apartments shall not be separated in ownership from the business use and may be used to satisfy community housing requirements for the business use with appropriate deed restrictions.
Single-family residential units	Permitted only where the residential unit fronts along Homestead Drive; limited to no more than 2,500 total sq. ft. per unit ³
Small day care or small total care	
Parks and recreation areas	
Temporary outdoor uses and vendors	See Sections 6-14 and 16-181
<u>Retail marijuana store</u>	<u>Community vitality use; see Subsection 16-29(c); See Note 4.</u>
Uses permitted by special review	
Bed and breakfast establishment	Community vitality use; see Subsection 16-29(c)
Bowling alley and skating rink	
Clubs	
Gas station with or without food market	
Banking with drive-up window	
Dental or medical clinic	
<u>Medical Marijuana Center Premises</u>	<u>See Subsection 16-29(c); See Note 4.</u>
Temporary multi-family or lodge	
Multi-family dwellings	Permitted only on the upper floors of the building; limited to no more than 1,400 sq. ft. per unit

Mobile home park	
Church	
School, public or private	
Public and nonprofit facilities, other than those typically occurring within an office building	See Paragraph 16-28(3)
Community center	
Large day care or large total care	
Transportation facilities, terminals	
Prohibited uses	
Wholesale business	
Automobile sales and services	
Campground	
Mobile home sales	
Extraction, processing and transportation of natural resource materials	
Lumberyard	
Small animal veterinary clinic	
Adult entertainment establishment	
Drive-in restaurant	
Medical center	
Medical marijuana facilities and Retail Marijuana Stores	

NOTES:

1. See Subsection 16-29(b) which states that any use that is not specifically listed as permitted by right or special review shall be deemed to be a prohibited use.
2. A real estate office that exclusively markets a single real estate development is prohibited to be located in the vitality zone.
3. Total square feet is defined in Section 16-4. For the purposes herein, total square feet also includes any common storage space that is assigned to an individual unit but excludes any parking space that is assigned to the unit.
4. Subject to compliance with the requirements set forth in Section 16-190 and the licensing requirements in Article V, Chapter 6.

Sec. 16-190. Medical marijuana facilities and Retail Marijuana Establishments.

A medical marijuana facility or retail marijuana establishment is prohibited unless specifically permitted by this section and by the zoning district regulations applicable to the subject property.

The premises for a medical marijuana center operating under the provisions of Colorado Constitution Article XVIII § 14, Section 18-18-406.3, C.R.S., Section 25-1.5-106, C.R.S., the Colorado Medical Marijuana Code and 1 CCR 212-1 (Permanent Rules Related to the Colorado Medical Marijuana Code, Marijuana Enforcement Division, Colorado Department of Revenue) is permitted in the Town subject to the requirements included in this Code, including but not limited to Chapter 6 and this Chapter. In addition a premise for a retail marijuana store operating under the provisions of Colorado Constitution Article XVIII § 16, C.R.S. 12-43.4-101 *et seq.*, and 1 CCR 212-2, each as amended, is likewise permitted in the Town subject to the requirements included in this Code including but not limited to Chapter 6 and this Chapter.

(1) Location limits for medical marijuana centers and retail marijuana stores. The premises for a medical marijuana center or the premises for a retail marijuana store permitted under State Law may be approved provided they satisfy the licensing requirements outlined in Chapter 6 and are located within areas zoned for that use as outlined in subsections (a) and (b) below and the schedule of use requirements outlined in Section 16-22.

(a) Located within areas zoned C-3 and P, and within the following premises:

- a. A medical center;
- b. A hospital building; or
- c. A hospice facility.

(b) Located in areas zoned **C-2, C-3 and** Industrial

(3) Additional limitations. Medical marijuana facilities and retail marijuana stores shall be subject to these additional requirements and restrictions:

a. The maximum signage shall be limited to the more restrictive of the otherwise applicable sign regulations for that property or the following: 1) only one (1) sign is permitted per premises, inclusive of any signage located in a window or on the exterior doors, roof and walls of the facility; and 2) no sign shall be larger than six (6) square feet. No temporary signage is permitted, including but not limited to sandwich boards, signs in or on windows and signs on cars parked in the Town limits. No off-premises signage is permitted.

b. All medical marijuana dispensing and retail products sales shall be conducted indoors within the approved premises.

c. All product storage shall be maintained indoors within the approved premises. Products, accessories and associated paraphernalia shall not be visible from a public sidewalk or way.

d. A medical marijuana dispensing facility or retail marijuana store may not include areas for testing or using the product within the facility, or medical center, or store and such testing or use is prohibited within such premises.

e. A medical marijuana dispensing facility cannot be colocated with a medical marijuana cultivation or infused products manufacturing facility.

f. The authorized growing of marijuana plants by a caregiver or patient and the conversion of them into medical marijuana must take place in an approved greenhouse or other structure that is enclosed on all sides, including the roof, regardless of location.

g. A medical marijuana center or retail marijuana store shall be required to meet any special venting, waste, and byproduct disposal requirements as determined to be reasonably necessary by the Town Building Official.

h. A medical marijuana center or retail marijuana store may not be colocated with food preparation facilities producing or assembling food.

i. A medical marijuana center may not sell nonmedical food products which are similar to the medical marijuana food products being sold in the center, including but not limited to brownies or lollipops. This prohibition does not include medicinal products such as tinctures.

j. A medical marijuana facility or retail marijuana store shall satisfy all licensing and permitting requirements of the State of Colorado and the Town prior to operation.

k. The Town may impose additional requirements through its land use review process as deemed necessary in order to protect the health, safety and residents of the Town and surrounding area.

EXHIBIT 1

Language underlined is being added to the current code and language struck through is being deleted.

Schedule of Uses in C-1 and C-3

Sec. 16-22.	<i>Use</i>	<i>C-1 Neighborhood</i>	<i>C-3 Community</i>
	Retail business/ commercial uses	P	P
	Wholesale business commercial	X	S
	Personal services	P	P
	Automobile sales and services	X	S
	Gas stations	X	S
	Parking lots	S	P
	Fast-food and drive-in restaurant	X	S
	Restaurants	X	P
	Commercial recreation facilities, including pool halls, bowling alleys, clubs, theaters, skating rinks	X	S
	Professional and business offices	S	P
	Hotels and motels	X	P
	Temporary multi-family or lodge	X	S
	Dental or medical clinics	X	P
	Churches	X	S
	School	X	S
	Private education or instructional facility	X	P
	Transportation facilities, terminals	X	P
	Campgrounds	X	S
	Public and governmental facilities	S	S
	Single-family residential units or apartments in conjunction with a business	S	P
	Community centers	X	S
	Banking, savings and loan with drive-up window	X	S
	Multi-family dwellings	X	S
	Mobile home parks	X	S
	Mobile home sales	X	S
	Extraction, processing and transportation of natural resource materials	X	S
	Park and recreation areas	P	P
	Child care and day nurseries	S	P
	Lumberyards	X	P
	Small day care	S	X
	Large day care	S	S
	Small total care	X	X
	Large total care	S	S
	Bed & breakfast establishment	X	X
	Small animal veterinary clinic	X	P
	Adult entertainment establishments	X	X
	Medical center (may include a medical marijuana center or marijuana store if it satisfies the definitions included in the Code and the special review approval)	X	S
	<u>Medical Marijuana Center Premises</u>	<u>X</u>	<u>S</u>
	<u>Retail marijuana store</u>	<u>X</u>	<u>P6</u>

Add note 6 below to the notes under the table.

...

6. See Requirements in Section 16-190 and Article V, Chapter 6

P = Permitted use S = Permitted by special review
X = Prohibited

NOTES:

1. For C-2, see Section 16-29, C-2 Downtown Business District.

Table 1
Schedule of Uses in the C-2 Zone District

Use	Use-Specific Standards
Permitted uses	
Retail business	Community vitality use; see Subsection 16-29(c)
Restaurant	Community vitality use; see Subsection 16-29(c)
Hotel and motel	Community vitality use; see Subsection 16-29(c)
Personal services	Community vitality use; see Subsection 16-29(c)
Movie and other theaters, pool hall and game room	Community vitality use; see Subsection 16-29(c)
Professional offices	
Business offices	See Note 2, below, for real estate offices
Banking and mortgage lending	
Offices for public and nonprofit uses	See Paragraph 16-28(3)
Parking garage	See Subparagraph 16-29(e)(4)d.2.
One or two apartments in conjunction with a business	Permitted only on the upper floor(s) of the building; limited to no more than 1,400 sq. ft. per unit ³ . Apartments shall not be separated in ownership from the business use and may be used to satisfy community housing requirements for the business use with appropriate deed restrictions.
Single-family residential units	Permitted only where the residential unit fronts along Homestead Drive; limited to no more than 2,500 total sq. ft. per unit ³
Small day care or small total care	
Parks and recreation areas	
Temporary outdoor uses and vendors	See Sections 6-14 and 16-181
<u>Retail marijuana store</u>	<u>Community vitality use; see Subsection 16-29(c); See Note 4.</u>
Uses permitted by special review	
Bed and breakfast establishment	Community vitality use; see Subsection 16-29(c)
Bowling alley and skating rink	
Clubs	
Gas station with or without food market	
Banking with drive-up window	
Dental or medical clinic	
<u>Medical Marijuana Center Premises</u>	<u>See Subsection 16-29(c); See Note 4.</u>
Temporary multi-family or lodge	
Multi-family dwellings	Permitted only on the upper floors of the building; limited to no more than 1,400 sq. ft. per unit

Mobile home park	
Church	
School, public or private	
Public and nonprofit facilities, other than those typically occurring within an office building	See Paragraph 16-28(3)
Community center	
Large day care or large total care	
Transportation facilities, terminals	
Prohibited uses	
Wholesale business	
Automobile sales and services	
Campground	
Mobile home sales	
Extraction, processing and transportation of natural resource materials	
Lumberyard	
Small animal veterinary clinic	
Adult entertainment establishment	
Drive-in restaurant	
Medical center	
Medical marijuana facilities and Retail Marijuana Stores	

NOTES:

1. See Subsection 16-29(b) which states that any use that is not specifically listed as permitted by right or special review shall be deemed to be a prohibited use.
2. A real estate office that exclusively markets a single real estate development is prohibited to be located in the vitality zone.
3. Total square feet is defined in Section 16-4. For the purposes herein, total square feet also includes any common storage space that is assigned to an individual unit but excludes any parking space that is assigned to the unit.
4. Subject to compliance with the requirements set forth in Section 16-190 and the licensing requirements in Article V, Chapter 6.

Sec. 16-190. Medical marijuana facilities and Retail Marijuana Establishments.

A medical marijuana facility or retail marijuana establishment is prohibited unless specifically permitted by this section and by the zoning district regulations applicable to the subject property.

The premises for a medical marijuana center operating under the provisions of Colorado Constitution Article XVIII § 14, Section 18-18-406.3, C.R.S., Section 25-1.5-106, C.R.S., the Colorado Medical Marijuana Code and 1 CCR 212-1 (Permanent Rules Related to the Colorado Medical Marijuana Code, Marijuana Enforcement Division, Colorado Department of Revenue) is permitted in the Town subject to the requirements included in this Code, including but not limited to Chapter 6 and this Chapter. In addition a premise for a retail marijuana store operating under the provisions of Colorado Constitution Article XVIII § 16, C.R.S. 12-43.4-101 *et seq.*, and 1 CCR 212-2, each as amended, is likewise permitted in the Town subject to the requirements included in this Code including but not limited to Chapter 6 and this Chapter.

(1) Location limits for medical marijuana centers and retail marijuana stores. The premises for a medical marijuana center or the premises for a retail marijuana store permitted under State Law may be approved provided they satisfy the licensing requirements outlined in Chapter 6 and are located within areas zoned for that use as outlined in subsections (a) and (b) below and the schedule of use requirements outlined in Section 16-22.

(a) Located within areas zoned C-3 and P, and within the following premises:

- a. A medical center;
- b. A hospital building; or
- c. A hospice facility.

(b) Located in areas zoned **C-2, C-3 and** Industrial

(3) Additional limitations. Medical marijuana facilities and retail marijuana stores shall be subject to these additional requirements and restrictions:

a. The maximum signage shall be limited to the more restrictive of the otherwise applicable sign regulations for that property or the following: 1) only one (1) sign is permitted per premises, inclusive of any signage located in a window or on the exterior doors, roof and walls of the facility; and 2) no sign shall be larger than six (6) square feet. No temporary signage is permitted, including but not limited to sandwich boards, signs in or on windows and signs on cars parked in the Town limits. No off-premises signage is permitted.

b. All medical marijuana dispensing and retail products sales shall be conducted indoors within the approved premises.

c. All product storage shall be maintained indoors within the approved premises. Products, accessories and associated paraphernalia shall not be visible from a public sidewalk or way.

d. A medical marijuana dispensing facility or retail marijuana store may not include areas for testing or using the product within the facility, or medical center, or store and such testing or use is prohibited within such premises.

e. A medical marijuana dispensing facility cannot be colocated with a medical marijuana cultivation or infused products manufacturing facility.

f. The authorized growing of marijuana plants by a caregiver or patient and the conversion of them into medical marijuana must take place in an approved greenhouse or other structure that is enclosed on all sides, including the roof, regardless of location.

g. A medical marijuana center or retail marijuana store shall be required to meet any special venting, waste, and byproduct disposal requirements as determined to be reasonably necessary by the Town Building Official.

h. A medical marijuana center or retail marijuana store may not be colocated with food preparation facilities producing or assembling food.

i. A medical marijuana center may not sell nonmedical food products which are similar to the medical marijuana food products being sold in the center, including but not limited to brownies or lollypops. This prohibition does not include medicinal products such as tinctures.

j. A medical marijuana facility or retail marijuana store shall satisfy all licensing and permitting requirements of the State of Colorado and the Town prior to operation.

k. The Town may impose additional requirements through its land use review process as deemed necessary in order to protect the health, safety and residents of the Town and surrounding area.

Proposed Changes to Chapter 6, Business License and Regulation

Chapter 6, Business License and Regulations as included in the Basalt Town Code is being amended as shown on this Exhibit. Underlined language is being added to the code and ~~struck through~~ language is being deleted from the code.

Exhibit 2

1. *Delete Section 6-123 as it only applied to the transition provisions in 2014 and replace it with "Reserved".*

Sec. 6-123.—Transition provisions. Reserved.

~~(1) Between June 26, 2014 and August 26, 2014, only medical marijuana center license holders that are currently licensed by the Town and under the CMMC and that are operating in good standing may apply for licensing of a retail marijuana store. Any such application must either propose to:~~

~~(a) Surrender the existing medical marijuana center license upon receipt of a retail marijuana store license, thereby entirely converting an existing medical marijuana center into a retail marijuana establishment; or~~

~~(b) Retain the existing medical marijuana license while locating a retail marijuana establishment under common ownership and exercise the option for either co-located or coterminous licensed premises, to the extent allowed by the Colorado Retail Marijuana Code and applicable state rules and regulations.~~

~~(2) Until September 30, 2014, the temporary wholesale sales and purchase limitation imposed on retail marijuana stores pursuant 1 CCR 212-2 Rule 402 shall remain in place in the Town.~~

2. *Revise Sec. 124 (c) to include Carbondale:*

(3) Residency. The applicant seeking licensure must provide the Town with the name of an owner or partial owner of the proposed medical marijuana center or retail marijuana store who shall have a primary home (as the term is defined in this Article V) within the following Colorado zip codes: 81611 – Aspen; 81615 – Snowmass Village; 81654 – Old Snowmass; 81656 – Woody Creek; 81642 – Meredith and Thomasville; 81621 – Basalt; 81623 – Basalt/Carbondale; and 81601 – Glenwood Springs.

3. Amend Section 6-125 including:

A. Changes from 2 medical marijuana licenses and 2 retail marijuana licenses to a total of 4 of whatever combination.

B. Adding additional limitations so that no one area, like downtown Basalt can have more than two such facilities

C. Adding Triangle Park and Basalt River Park to the list of Buffer areas.

Sec. 6-125. Requirements for obtaining licensing of medical marijuana centers and retail marijuana stores.

(1) No more than a total of two ~~(2)~~ four (4) medical marijuana centers and no more than two ~~(2)~~ retail marijuana stores of whatever combination shall be licensed within the Town limits with no more than two (2) such facilities within each of the following locations:

(a) Historic Downtown Area within that portion of Town lying west of the Frying Pan River, north of the Roaring Fork River, east of the Homestead Drive/Two Rivers Road Intersection, and south of the Sopris Drive/Midland Avenue Intersection.

(b) Willits Town Center PUD and Old Orchard Plaza; or

(c) Any area of a circumference of 1,000 feet

(2) Any person, partnership, or corporation must have a separate license for each medical marijuana center or retail marijuana store, including those that are co-located or coterminous.

(3) Neither medical marijuana centers nor retail marijuana stores shall be permitted within any of the following locations:

(a) 500 feet of the following major parks: Arbaney Park, Lions Park, Southside Park, Willis Linear Park, and Willits Soccer Field, Triangle Park, and Basalt River Park;

(b) 500 feet of a licensed child care facility;

(c) 1000 feet of an elementary school, middle school or high school;

(d) in a building where the use would abut the following school routes: Two Rivers Road from Homestead Drive to Elk Run Drive; Southside Drive from the High School Property to Fiou Lane; Fiou Lane from Southside Drive to Basalt Avenue; Basalt Avenue from Fiou Lane to Two



↑
No.
≠
Location
Restrictions
↓

Rivers Road; or Cottonwood Drive from Two Rivers Road to Riverside Drive; or

(e) any location that is not permitted by the CMMC or the CRMC.

The distances referred to in the above subparagraphs (a), (b), and (c) are to be computed by direct measurement from the nearest property line of the land used for a school, park, or child care facility to the nearest portion of the building in which medical or retail marijuana is to be sold, using a route of direct pedestrian access. The above provisions shall not affect the renewal or reissuance of a license once granted by the Town, nor shall the provision apply to an existing licensed premises on land owned by the state or apply to a license in effect and actively doing business before said facility listed above was constructed.

4. *Amend Sec. 6-128 (9) Operation of licensed medical marijuana centers and retail marijuana stores to address items requested by the Police Department regarding surveillance, security and monitoring.*

(9) The licensed premises shall be monitored and secured twenty-four (24) hours a day including, at a minimum, the following security measures:

(a) Installation and use of digital security cameras, capable of recording and duplicating color video and still images that are identifiable in all lighting conditions twenty-four (24) hours per day, to monitor all areas of the licensed premises where persons may gain or attempt to gain access to marijuana, marijuana products, paraphernalia, or monies maintained by the center or store. Security surveillance cameras shall also monitor the main entrance along the interior and exterior of the premises to discourage crime and to facilitate the reporting of criminal acts as well as nuisance activities. Security camera surveillance recordings, from all security cameras at the licensed premises, shall be preserved for at least one hundred eighty (180) days, by the business, and be made immediately available law enforcement officers upon request in a format that can be viewed and duplicated by the Basalt Police Department.

(b) Access to online web-based live monitoring of all video surveillance cameras shall be provided to the Police Department.

~~(b)~~ (c) Exterior lighting shall illuminate all exterior windows and doors of the center or store which are accessible from the exterior of the building during non-daylight hours. All exterior lighting must be in compliance with the Town Code. This requirement may be waived upon concurrency by the Police Chief and Town Planner.

~~(d)~~ (e) All exterior windows shall not be covered by window shades or other material and shall be of sufficient size to permit observation of the interior of

the licensed premise by law enforcement officers standing outside the center or store.

(d) Installation and use of a locking burglary safe for storage of all marijuana, marijuana products, and /or monies on the licensed premises during non-business hours. The safe shall be incorporated into the building structure or securely attached thereto. Edible products must stored in a locking refrigerated container incorporated into the building structure or securely attached thereto.

(e) Written documentation of security measures, video surveillance systems, and drawings of licensed premises shall be included with the application for a medical marijuana center license or retail marijuana store.

5. *Amend Sec. 6-128 Operation of licensed medical marijuana centers and retail marijuana stores to add required training as the Town currently does for liquor establishments.*

(10) Every owner and manager of a medical marijuana center or retail marijuana store shall ensure that every owner and manager, and all employees responsible for the sale of the product has successfully completed an approved educational seminar.

6. *Sec. 6-130. Unlawful acts. is proposed to be amended by adding a new subparagraph 8 as shown below.*

(7) Operating a medical marijuana center or retail marijuana store to refuse to permit any lawful inspection of the licensed premises.

(8) Violating any of the provisions contained in this article.

TOWN OF BASALT ACTION ITEM SUMMARY ADMINISTRATION	Item Number: 7a Date: July 7, 2016 From: Mike Scanlon, Town Manager
--	--

SUBJECT: Resolution 27, Series 2016 - Direction to Staff related to expansion of zoning districts where marijuana could be sold and to consider the Town's four license locations to be either retail or medical.

RECOMMENDATION:
That the Town Council approve Resolution 27, Series 2016 giving direction to staff.

DETAILS:
See attached memo from the Town Manager.

Related State Statute and/or Town Actions: Multiple Colorado State Laws and Ordinances of the Town of Basalt
Amount Requested: None



TOWN MANAGER MEMO

Date: June 24, 2016
To: Mayor and Town Council
From: Mike Scanlon, Town Manager
Re: Marijuana Laws and Town Regulations

As I stated in my Memo to the Town Council in November, 2013 and I'm paraphrasing in parts, I said

....."in my over 30 years of working in local governments I've encountered several issues that mirror the discussions we're about to have regarding marijuana and town regulations. What I have found, is that these issues require us as staff and the Town Council to do three things,

1. Understand the history of the issue. Understanding the evolution of marijuana in Colorado and our community is helpful in understanding the past and current social acceptance of marijuana.
2. Take a moment and step back a bit and look at what we're trying to accomplish in regulating marijuana businesses. What are we attempting to regulate and why. It's either subjective or objective biases that influences how regulations are developed. What's real and what's not real in our biases?
3. Take what you understand about the history and where you're at and turn it into meaningful regulation."

As a community I think we've done that. We have been very pragmatic in allowing it in our community. Along the way we've loosened some of our regulations so that those businesses that undertake the sale of marijuana can be successful. Where appropriate we've changed our regulations.

What is clear now is that our zoning restrictions when overlaid with our current buffering requirements makes it almost impossible to locate a marijuana business in our community. Was that our intent?

Except for the one approved license we have at 165 Southside (Roots RX) we have through a combination of buffers and zoning restrictions created a virtual moratorium on marijuana businesses in Basalt.

Additionally, we've created an impression that by having a list and getting your name on it you will one day have the ability to have a marijuana business in Basalt. But nobody on the current list can find a location. So how long do I keep them on the

list? And when they attempt and fail at securing a location do they go to the bottom of the list or maintain their position? What is the point of the list if there are no possible locations?

Because our zoning and buffers are so rigid we as staff are constantly put in the position of people reinterpreting our codes or asking for rewrites of the code (Ordinance 3, Series 2015, Ordinance 12, Series 2015). Those two ordinances addressed ways to make it easier to locate a marijuana business by allowing a "portion of the building to be considered" and changing the measurement of a buffer by "direct pedestrian access." A year has gone by and still no locations have been identified.

We as Town Staff are asking that the Town Council consider two additional changes to our current marijuana regulations. The reason we're asking for these considerations is we don't believe by either the vote of the people of Basalt or by past actions of the Town Council that we as a community intended to ban marijuana businesses from our community.

The two changes we recommend if you want to allow for additional marijuana businesses are these.

1. A change in total number of licenses from two (2) Medical Marijuana Licenses and two (2) Retail Marijuana Licenses to four (4) total Licenses for marijuana businesses regardless of the type.
2. That we increase the number of zoning districts where marijuana businesses may be located. Acknowledging that our buffers are sufficient in nature to limit the risk/exposure to the youth that some people in our community feel are important.

If the Town Council feels conversely, I would recommend us to simply ban it entirely from the community with the exception of the one store location that has already been approved. Either action would greatly reduce our staff time applied to discussing possible locations with marijuana business owners that will never happen.

To continue this discussion I have crafted a very simple resolution identifying the two items above and directing staff and the Planning Commission to suggest additional zoning districts in which marijuana businesses can exist.

Additionally I've provided the following,

1. A table showing the various Ordinances/Resolutions passed by the Town Council related to marijuana businesses in Basalt.
2. The Memo I sent to Town Council in November, 2013.
3. **I'm having Pam place a link on the Town's website for the full application Roots RX had to submit to be considered. You need to**

can't ban

understand the level of regulation currently in place to ensure that our collective public interests are protected.

Basalt Town Council Actions – Marijuana Businesses

Resolution/Ordinance	Subject	1 st Reading /2 nd Reading
Ordinance 28, Series 2013	Ordinance extending the moratorium on retail marijuana businesses	11/17/2013 12/10/2013
Ordinance 30, Series 2013	Ordinance establishing the Zoning Districts where medical marijuana business could be established	12/10/2013 01/14/2014
Ordinance 31, Series 2013	Ordinance establishing licensing and regulations for medical marijuana businesses and lifting the moratorium on medical marijuana (the moratorium had been in place roughly 37 months)	12/10/2013 01/14/2014
Ordinance 8, Series 2014	Ordinance relates to the Town's Criminal Code, Title 10, regulation of marijuana	02/25/2014 03/11/2014
Ordinance 9, Series 2014	Ordinance relates to the Town's Criminal Code, Title 10, regulation of drub paraphernalia	02/25/2014 03/11/2014
Ordinance 14, Series 2014	Ordinance establishing the Zoning Districts where retail marijuana business could be established	05/13/2014 05/27/2014

Resolution/Ordinance	Subject	1 st Reading /2 nd Reading
Ordinance 17, Series 2014	Ordinance establishing licensing and regulations for retail marijuana businesses	05/27/2014 06/10/2014
Resolution 34	Resolution directing staff to develop the necessary language for an Ordinance for placing a ballot issue before the voters for consideration of a sales tax on marijuana	06/24/2014
Ordinance 24, Series 2014	Ordinance of the Town Council calling for an election on 11/4/2014 to authorize a Municipal Sales Tax of up to 5% upon the sale of retail marijuana and retail marijuana products	08/12/2014 08/26/2014
Public Hearing Retail Marijuana Application	Public Hearing and approval of an application to allow for a retail marijuana store located at 165 Southside (Roots RX)	09/23/2014
Ordinance 3, Series 2015	Ordinance relating to the definition of buffers and application to a building. Originally it said , <i>".....the nearest portion of the building in which medical or retail marijuana is to be sold."</i> Changed to, <i>".....the nearest portion of the section of the building in which medical retail marijuana is to be sold."</i>	04/14/2015 04/28/2015 - <i>Failed</i>

Resolution/Ordinance	Subject	1 st Reading /2 nd Reading
Ordinance 12, Series 2015	<p>Ordinance changed these items in the regulations</p> <p>Measurement: Measuring of buffers now defined as "using a route of direct pedestrian access."</p> <p>Days of Sales: Changed from: Monday - Saturday To: <u>Monday - Sunday</u></p> <p>Hours of Sales: Changed from 9:00 a.m. to 7:00 p.m. To: <u>8:00 a.m. to 12:00 a.m.</u></p>	<p>07/14/2015 07/28/2015</p>
Public Hearing Retail Marijuana Application	Public Hearing and approval of the renewal of the marijuana license located at 165 Southside (Roots RX)	11/10/2015

**RESOLUTION OF THE TOWN COUNCIL OF BASALT, COLORADO, RELATED TO
CONSIDERING AN EXPANSION OF ZONING DISTRICTS WHERE MARIJUANA
COULD BE SOLD AND TO CONSIDER THE TOWN'S FOUR ALLOWED LICENSE
LOCATIONS TO BE EITHER RETAIL OR MEDICAL MARIJUANA BUSINESSES.**

**Town of Basalt, Colorado
Resolution No. 27
Series of 2016**

RECITALS

1. The Town of Basalt has carefully crafted regulations to address marijuana businesses in our community.
2. The Town's residents through the various elections held state-wide on the issue of marijuana businesses and the Town Council by various actions related to the regulation of marijuana businesses have supported the establishment of marijuana businesses in our Town.
3. Through the evolution of regulation it appears that our current requirements on buffers and zoning districts creates a virtual moratorium on these businesses.

NOW, THEREFORE, BE IT RESOLVED by the Basalt Town Council of Basalt, Colorado, as follows:

Section 1. The Town Council directs the following action,

- A. That the Planning and Zoning Commission be directed to expand the allowable zoning districts where marijuana businesses will be allowed.
- B. That staff be directed to rewrite the current Town Marijuana regulations to allow for four (4) licenses of any type of marijuana business.

READ AND ADOPTED by a vote of ___ to ___ on July 12, 2016.

TOWN OF BASALT, COLORADO

By: _____
Jacque R. Whitsitt, Mayor

ATTEST:

By: _____
Pam Schilling, Clerk



TOWN MANAGER MEMO

Date: November 19, 2013
To: Mayor and Town Council
From: Mike Scanlon, Town Manager
Re: Marijuana Laws and Town Regulations

Over my 30 years working in local governments I've encountered several issues that mirror the discussions were about to have regarding marijuana and town regulations.

What I have found is that these issues require us as staff and the Town Council to do three things,

1. Understand the history of the issue. You will find attached a history of Marijuana in the State of Colorado, Towns and Cities in Colorado, and the Town of Basalt (BLUE). See attached History.
2. Take a moment and step back a bit and look at what we're trying to accomplish. What are our Town, Town Council and Staff goals? Similarly, what are our biases and why? What have the voters said in past elections?
3. How do we take what we've learned in #1 add it to what we understand about #2 and turn it into a meaningful set of regulations.

What I'm proposing is that we take a very pragmatic approach to the discussion of marijuana regulations and our role in regulating the industry. I would propose that we would rescind our moratorium on medical marijuana and rewrite our regulations to be simpler and easier to enforce and leave it to the will of the people if we got it right. We need to let the initiative and referendum portions of our laws play out. We would at the same time extend our moratorium on recreational marijuana to two years. The recreational marijuana area of law and regulation is still evolving and we should give ourselves time to understand the issues on the recreational side.

Medical Marijuana

The Election Results:

The medical marijuana vote in Eagle and Pitkin County on November 7, 2000 was as follows,

Eagle County (69% Yes / 31% No)

Pitkin County (81% Yes / 19% No)

It wasn't until 2010 and the passage of SB 109 and HB 1284 that there was a state-wide licensing program

We have had a Medical Marijuana Ordinance on our books since September 8, 2009. The actual ordinance was only in effect from November 11, 2009 (accounting for the first moratorium) through October 26, 2010. Since that time we have had a moratorium on Medical Marijuana Facilities. Our second moratorium was for two years and was from October 26, 2010 through October 26, 2012 (Ordinance 18 - 2010). Our third moratorium was from October 23, 2012 through October 23, 2014 (Ordinance 17 - 2012). We have had a moratorium for 37 of the 48 months (or 77% of the time) since we passed our medical marijuana regulations.

Our two moratoriums state the following,

Ordinance 18 - 2010: and Ordinance 17 - 2012:

Section 3. Staff and Attorney to Investigate and Prepare Proposed Regulations. Before the expiration of the effective period, the Town Staff, working with the Town Attorney, shall carefully review the legal authority of the Town to regulate the growth, production, distribution, and sale of medical marijuana pursuant to Article 18, Section 14 of the Colorado Constitution and the regulations adopted by the Colorado Department of Revenue pursuant to the Medical marijuana Code. Such investigations shall be completed promptly and with due diligence. The Town Attorney shall prepare appropriate new regulations for consideration by the Town Council.

It would appear that we've simply "kicked the can" down the road over the last 37 months.

If you look at other communities in Colorado and the positions they've taken on medical marijuana as of May, 2013 this is what it looks like,

Elections		Number of Towns/Cities	
Prohibit MM		40	
Allow MM		7	
Council Action		Number of Towns/Cities	
Prohibit MM		70	
Allow MM		36	

We are the only Colorado Town or City that currently has a moratorium on medical marijuana. (per Colorado Municipal League (CML) Database)

Our proposed new Medical Marijuana Ordinance would create a regulatory framework based on these four areas

- Time
- Place
- Manner
- Number

Time: We regulate the times that a medical marijuana facility can be open. *(We would recommend 9:00am - 4:00 pm).*

Place: We regulate the place that a medical marijuana facility can be established. *(Map to be provided at meeting- primarily industrial zoned areas)*

Manner: We augment State regulations with a set of "common sense" enforceable regulations that we can monitor. *(Regulations that the Chief will provide tonight)*

Number: We limit the number of medical marijuana facilities that can be established. *(The number we recommend is two)*

We then rely primarily on the State of Colorado to regulate the licenses of the Medical Marijuana facilities, this would be no different than the enforcement of State Liquor laws.

Marijuana's History (State, Cities and Towns, Town of Basalt)

1919:

Colorado makes marijuana illegal, one of the first states to do so. Concern had been growing in the western states because pot was associated with Mexicans moving into the region, an influx that fueled racial tensions.

1929:

After it is reported that a young girl was murdered by her marijuana-smoking stepfather, a man who happens to be Mexican, Colorado governor William Adams signs a bill increasing penalties for sale, possession and production of marijuana.

1937:

The Marihuana Tax Act leads to the federal criminalization of marijuana.

1975:

The Colorado General Assembly downgrades the penalty for possessing an ounce or less of marijuana, following in the footsteps of similar measures passed in Oregon two years earlier.

1997:

Local and national marijuana advocates begin preparing an initiative to legalize medical marijuana in Colorado, patterned after the medical marijuana law passed in California the year before.

1998:

Coloradans vote on Amendment 19, which would legalize medical marijuana -- but Secretary of State Vicki Buckley refuses to count the votes after determining that proponents collected an insufficient number of signatures to put the measure on the ballot.

2000:

After the Colorado Supreme Court rules that Buckley had erred in not counting the votes in 1998, the medical marijuana measure is once again put in front of voters as Amendment 20 -- and passes with 53 percent of the vote.

May 2001:

Then-attorney general Ken Salazar warns doctors that they could face federal charges if they participated in the state's medical marijuana program.

June 2001:

The Colorado Department of Public Health and Environment (CDPHE) launches the Medical Marijuana Registry Program, which licenses patients to use medical marijuana. The program grows slowly; in the first four years, just over 500 people apply for a license.

2004:

The CDPHE's Board of Health institutes a rule limiting each medical marijuana caregiver to a maximum of five patients.

2004:

Denver residents Thomas and Larissa Lawrence open the Colorado Compassion Club, possibly the state's first marijuana dispensary.

2005:

With the help of the newly founded marijuana-reform organization SAFER, students at the University of Colorado at Boulder and Colorado State University pass initiatives that call for the penalties for marijuana violations to be no harsher than those for alcohol. Neither school's administration has yet to change its policies.

November 2005:

54 percent of Denver voters approve a measure decriminalizing adult possession of up to an ounce of marijuana, making Denver the first major city in the country to do so. At the same time, a ballot measure in Telluride that would have made marijuana the lowest law-enforcement priority loses with 49 percent of the vote.

November 2006:

A statewide attempt to decriminalize adult possession of up to an ounce of marijuana fails at the polls with 41 percent of the vote.

July 2007:

Chief Denver District Judge Larry Naves suspends the Board of Health's five-patients-per-caregiver rule on the grounds that the board lacked public input on the matter. Now caregivers are allowed to take on as many patients as they want.

November 2007:

57 percent of Denver voters approve a new city ordinance designating adult marijuana possession the city's lowest law-enforcement priority and calling for the creation of a city review panel on the issue.

December 2007:

Mayor John Hickenlooper appoints the Denver Marijuana Policy Review Panel to study marijuana prosecutions in the city.

May 2008:

The Denver Marijuana Policy Review Panel recommends that the Denver City Attorney's Office no longer prosecute cases of private adult marijuana possession, a change the City Attorney's Office has yet to implement.

January 2009:

The number of patients on the state's medical marijuana registry crests at 5,000, twice what it was a year earlier; in the same amount of time, the number of dispensaries statewide explodes from two to about thirty.

March 2009:

U.S. Attorney General Eric Holder announces new policy changes that would end federal raids on medical marijuana dispensaries.

July 2009:

The Board of Health considers reinstating the five-patients-per-caregiver rule. But at the end of a packed, day-long hearing, the board votes against implementing the limit, and instead broadens the definition of who can be considered a marijuana caregiver.

AUGUST 11, 2009:

Ordinance 12, 2009 – Approved on first reading:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO, APPROVING AMENDMENTS TO PORTIONS OF CHAPTER 16, ZONING, OF THE MUNICIPAL CODE OF THE TOWN OF BASALT, COLORADO, CONCERNING MEDICAL FACILITIES, INCLUDING OFFICES, CLINICS, CENTERS, AND MEDICAL MARIJUANA FACILITIES

Ordinance 13, 2009 – Approved on first reading

ORDINANCE OF THE TOWN COUNCIL OF BASALT, COLORADO, ADDING A NEW ARTICLE V TO CHAPTER 6, BUSINESS LICENSES AND REGULATIONS, OF THE MUNICIPAL CODE OF THE TOWN OF BASALT, COLORADO CONCERNING LICENSE REQUIREMENTS FOR MEDICAL MARIJUANA FACILITIES

Ordinance 14, 2009 – Approved Emergency Ordinance

Section 1. Imposition of Temporary Moratorium on Applications for Permits, Licenses, and Land Use Approvals Related to Persons that Grow, Produce, or Sell Medical Marijuana. Upon the adoption of this ordinance, a moratorium is imposed upon the submission, acceptance, processing, and approval of all applications for permits, licenses, and land use approvals by the Town of Basalt related to a person that grows, produces or sells, or proposes to grow, produce or sell medical marijuana pursuant to the authority granted by Article 18, Section 14 of the Colorado Constitution. The Town Staff, is directed to refuse to accept for filing, and not to process or review any such new applications during the moratorium period.

Section 2. Effective Dates of Moratorium. The moratorium imposed by this ordinance shall commence as of the date of the adoption of this ordinance, and shall expire ninety (90) days thereafter, unless sooner repealed and the period of effectiveness of this Ordinance is referred to herein as the "Effective Period".

AUGUST 25, 2009:

Continued Ords 12 and 13 to September 8, 2009

SEPTEMBER 8, 2009:

Executive Session on Marijuana legislation and medical marijuana zoning, licensins and regulation.

Ordinance 12: Adopted as amended (not including 8,000 square foot amendment)

Ordinance 13: Adopted as amended (to reflect CBI background checks)

September 2009:

Since the July hearing, the state's medical marijuana registry has swelled to more than 10,000 applicants, with the state receiving more than 400 new applications each day. To meet demand, at least seventy Colorado dispensaries are opened, forty in the metro area alone.

OCTOBER 27, 2009:

First reading of Ordinance 17:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO, REVISING THE MUNICIPAL CODE OF THE TOWN OF BASALT, CHAPTER 10, GENERAL OFFENCES, SECTION 10-27 "UNLAWFUL POSSESSION OF MARIJUANA" AND SECTION 10-28 "UNLAWFUL POSSESSION OF DRUG PARAPHERNALIA," TO ACCOMMODATE LAWFUL USE AND POSSESSION OF MEDICAL MARIJUANA AND REVISING THE SCHEDULE OF FINES, PENALTIES, AND ADMINISTRATIVE FEES FOR THE POLICE DEPARTMENT

October 2009:

A new Justice Department policy instructs federal prosecutors to not charge people who use or provide medical marijuana if they are in compliance with state laws.

NOVEMBER 10, 2009:

Second reading of Ordinance 17. Adopted.

November 2009:

- In response to a Court of Appeals decision that a caregiver has to do more than provide a patient with marijuana, the Board of Health strikes the definition of a marijuana caregiver from state rules at a last-minute contentious hearing, throwing the medical-marijuana industry into turmoil.
- Chief Denver District Judge Larry Naves voids the Board of Health's rule change a week after it is implemented, finding that the board once again did not solicit enough public input. The Board of Health has yet to reconsider the issue.
- A ballot measure in Breckenridge to legalize adult possession of up to an ounce of marijuana passes with 71 percent of the vote.

January 2010:

While some municipalities ban dispensaries altogether, Denver passes broad new regulations that allow the businesses as long as they aren't within 1,000 feet of one another or schools; their owners pass background checks; and the operations pay the city several thousand dollars in licensing fees.

CDPHE's vital statistics department is receiving more than 1,500 medical marijuana applications a day.

February 2010:

- The Denver City Attorney's Office announces that 1,694 adults were prosecuted for marijuana possession in 2009, slightly higher than the

number prosecuted the year before the city's decriminalization measure went into effect.

- DEA agents raid a suburban grow operation in Highlands Ranch run by Chris Bartkowicz after they learn about it from a television news story.

March 2010:

- 235 businesses apply for the new Denver dispensary license before the deadline expires for existing dispensaries, providing the city with more than a million dollars in new fees in three weeks.
- SAFER executive director Mason Tvert files preliminary language to place a measure on the November ballot that would legalize and regulate adult use of marijuana statewide.

April 2010:

- By a vote of 259 to 218, Nederland voters remove all criminal penalties for anyone 21 or older for buying, selling, possessing, consuming, growing or transporting marijuana.
- Having received between 60,000 and 70,000 medical marijuana applications and getting thousands more each week, the CDPHE's vital statistics department acquires new budget funding to increase its staff, from three permanent and three temporary employees to ten permanent and ten temporary workers.
- Students at Fort Lewis College in Durango overwhelmingly pass a referendum calling on university marijuana penalties to be no greater than those for alcohol.

May 2010:

Legislators pass Senate Bill 109, which regulates medical-marijuana doctor-patient relationships, as well as House Bill 1284, making Colorado the first state in the country to formalize a statewide medical marijuana dispensary system.

June 2010:

- Eagle County Board of Commissioners adopts more restrictive temporary regulations to control cultivation and production of medical marijuana in effect until December 2010.
- Gov. Bill Ritter signs a bill that gives local governments the right to regulate or ban dispensaries.

July 2010:

- Town of Avon bans medical marijuana dispensaries.
- Town of Vail bans medical marijuana dispensaries.
- City of Glenwood Springs passes a one-year moratorium on new medical marijuana dispensaries. Nine medical marijuana centers had already opened within the city.

AUGUST 10, 2010:

Work session on Amendments 60, 61 and Proposition 101.

SEPTEMBER 14, 2010:

Public Hearing and Appeal of Medical Marijuana License for Basalt Alternative Medicine. Council directed staff to work with BAM in the amendment of the original DHC license and subject to all the requirements thereof. License was denied on August 25, 2010.

September 2010:

- Town of Gypsum passes an ordinance banning medical marijuana dispensaries.

OCTOBER 26, 2010:

Ordinance 18: Request for Emergency Ordinance re: Licensing of Medical Marijuana Facilities.

M/S COUNCILORS TEAGUE AND FREEDMAN TO ADOPT ORDINANCE NO. 18, SERIES OF 2010 BY TITLE AS AN EMERGENCY MEASURE: AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO, IMPOSING A TWO-YEAR MORATORIUM ON THE ACCEPTANCE, PROCESSING, AND REVIEW OF APPLICATIONS FOR APPROVAL OF MEDICAL MARIJUANA FACILITIES. THE MOTION CARRIED UNANIMOUSLY – 4 TO 0.

November, 2010:

- Majority of voters in Eagle County confirm that a properly regulated medical marijuana industry should be allowed to operate in unincorporated Eagle County.
- Town of Minturn residents vote to allow medical marijuana shops in town, but the town cites federal law in not allowing business applications.

July 1, 2011:

- Colorado HB11-1043, “an act concerning medical marijuana, and making an appropriation therefor,” amending Colorado medical marijuana code, becomes effective.

March 27, 2012:

- Breckenridge Town Council adopts an ordinance that amends its local medical marijuana policies on licenses and regulations in response to changing state medical marijuana laws. New state laws include changing the application fee from a two-year permit to a one-year permit; increasing the setback from schools and daycare centers from 500 feet to 1,000 feet and establishing application fees for changes of ownership, location or corporate structure.

June 2012:

- Town of Minturn passes an ordinance banning medical marijuana businesses.

July 1, 2012:

- All preexisting medical marijuana dispensaries, cultivation operations and production of medical marijuana-infused food products need to become licensed through the state by this date.

Nov. 6, 2012:

- Colorado voters approve Amendment 64, legalizing the recreational use of marijuana by adults 21 and older and permitting the retail sale, cultivation, manufacturing and testing of marijuana. The amendment makes legal the growing and possession of marijuana for personal use and authorizes local jurisdictions to regulate marijuana businesses.

April 2013:

- Summit County commissioners vote to allow recreational marijuana sales and cultivation.

May 2013:

Governor John Hickenlooper signs three bills into law that address Amendment 64.

July 1, 2013:

- Colorado's State Licensing Authority passes emergency rules and a deadline of Oct. 1, 2013 for local jurisdictions to either ban retail marijuana businesses or adopt regulations for such businesses. Many jurisdictions choose to put moratoriums in place as a way to extend the deadline on making a decision.

August 2013:

- City of Glenwood Springs extends its moratorium on retail marijuana applications through Dec. 31.
- Garfield County commissioners ban all commercial marijuana operations for recreational purposes in unincorporated areas of the county.
- Town of Red Cliff approves future retail marijuana businesses to open.

September 2013:

- Town of Frisco passes rules for retail marijuana establishments, allowing them in town but under strict zoning requirements.
- Town of Silverthorne passes regulations for retail marijuana establishments.
- Town of Dillon extends a moratorium on retail marijuana establishments with a sunset date of Oct. 1, 2014.
- Town of Breckenridge votes for no new medical or retail marijuana shops in the downtown overlay district. The lone downtown store already open can continue to operate until its lease expires in September 2014.
- Town of Carbondale approves an ordinance that will allow marijuana businesses — including retail, cultivation, manufacturing and testing — to open in town.
- Town of Eagle passes a temporary moratorium on retail marijuana shops and creates ballot language for the upcoming November election that asks

voters whether the town should allow retail marijuana operations.

- Colorado State Licensing Authority adopts permanent rules for retail marijuana and revised rules for medical marijuana.

October 2013:

- City of Aspen set to vote Oct. 15 on whether the number of recreational marijuana retailers in Aspen should be no greater than the number of medical dispensaries that were established by Oct. 1, 2013.

November 2013:

Colorado citizens will vote on Proposition AA, which, if approved, would:

- Impose a 15 percent state excise tax on the average wholesale price of retail marijuana when the product is first sold or transferred by a retail marijuana cultivation facility, with public school construction to receive the first \$40 million of any annual tax revenues collected;
- Impose a 10 percent state sales tax on retail marijuana and retail marijuana products, in addition to the existing 2.9 percent state sales tax, to increase funding for the regulation and enforcement of the retail marijuana industry and to fund related health, education and public safety costs; • Direct 15 percent of the revenue collected from the 10 percent state sales tax to cities and counties where retail marijuana sales occur
- Allow the state legislature to increase or decrease the excise and sales taxes on retail marijuana so long as the rate of either tax does not exceed 15 percent.

Jan. 1, 2014:

Once approved by state and local jurisdictions, medical marijuana

business owners will be allowed to open retail marijuana businesses on or after this date.

- Direct 15 percent of the revenue collected from the 10 percent state sales tax to cities and counties where retail marijuana sales occur.
- Allow the state legislature to increase or decrease the excise and sales taxes on retail marijuana so long as the rate of either tax does not exceed 15 percent.

Jan. 1, 2014:

Once approved by state and local jurisdictions, medical marijuana business owners will be allowed to open retail marijuana businesses on or after this date.