

**Town of Basalt, Colorado
Ordinance No. 8
Series of 2013**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO, GRANTING A PUD AMENDMENT AND A MINOR SUBDIVISION APPROVAL FOR THE CONSTRUCTION OF A JOINT USE GARAGE WITH LIVING SPACE ON LOTS 8 AND 9, FRYING PAN VILLAGE SUBDIVISION/PUD (CHAPMAN APPLICATION)

RECITALS

A. The Town of Basalt ("Town"), acting by and through its Town Council ("Town Council"), has the power to grant approval for a PUD Amendment and Minor Subdivision for the construction of a joint use garage with living space above it at 135 and 145 Village Court. Robert and Cynthia Chapman ("Applicants") submitted an application for a PUD amendment and Minor Subdivision in April of 2013. Said application is for property more particularly described as Lots 8 and 9, Frying Pan Village Subdivision/PUD according to the plat as recorded at Reception No. 500790 in the Eagle County, Colorado Clerk and Recorder's Office.

B. At a duly-noticed public hearing held on June 18, 2013, the Planning and Zoning Commission considered the application. At the public hearing on June 18, 2013, the Planning and Zoning Commission heard evidence and testimony as offered by the Town Staff, the Applicants, and members of the public. The Planning and Zoning Commission recommended approval of the application with conditions.

C. At a duly-noticed public hearing on July 9, 2013, the Town Council approved this Ordinance on first reading, continued and scheduled a public hearing and second reading for this Ordinance for July 23, 2013, for a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

D. At a public hearing and second reading on July 23, 2013, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicants, and members of the public.

E. The Town Council finds and determines it is in the best interests of the Town to approve this Ordinance. Further, the Town Council finds and determines this Ordinance is reasonably necessary to promote the legitimate public purposes of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO AS FOLLOWS:

A. **FINDINGS.** The Town Council hereby incorporates by reference and conclusively makes the above recitals.

B. **APPROVAL AND CONDITIONS OF APPROVAL.** The Town Council hereby approves the PUD Amendment and Minor Subdivision application for the construction of a joint use garage with a living space above the garage on Lots 8 and 9, Frying Pan Village Subdivision/PUD subject to the following conditions:

Representations

1. The Applicant shall comply with all representations set forth in the Application.
2. The Applicant shall comply with all material representations made in hearings before the Planning and Zoning Commission and Town Council.

Owner/HOA Consent:

3. Prior to recording the amended plat and prior to issuance of a building permit for the joint use garage, the Applicants shall submit evidence to the Town that 67% of the Owners within the PUD have approved the amended plat and the PUD amendment in accordance with the requirements of the HOA documents.
4. Prior to recording the amended plat and prior to issuance of a building permit for the joint use garage, the Applicants shall submit proof to the Town that the Frying Pan Village Covenants have been amended to include Lots 8 and 9 among the lots permitted to have a joint use garage.

Concurrency of Garage Construction:

5. Both sides of the joint use garage shall be constructed concurrently and shall be completed before the issuance of a certificate of occupancy on either side of the garage.

Approval Documents:

6. After review and approval by the Town Planner and Town Attorney, the Applicants shall execute and record the Party Wall and Easement Agreement. The Party Wall and Easement Agreement shall be recorded in the Eagle County Clerk and Recorder's Office prior to the issuance of a building permit to construct the joint use garage and prior to the expiration of vested rights.
7. The Amended Plat of Lots 8 and 9 will be reviewed for approval by the Town Planner and Town Attorney. Once approved by the Town Planner and Town Attorney, the Amended Plat must be executed and recorded in the Eagle County Clerk and Recorder's Office within 180 days of the final approval. The Town Planner may extend the recording deadline by up to 180 days if the Applicants demonstrate that progress is being made towards finalizing the plat. If the Amended Plat of Lots 8 and 9 is not recorded in the timeframe set forth in this condition, the approvals shall expire.

Technical Issues:

8. Kitchen facilities shall not be installed in the residential space above the garage in order for the space not to be considered an additional dwelling unit.
9. If a residential space is approved above the Lot 9 portion of the garage in the future through a PUD amendment, the entire residential space above the garage, including the portion constructed as a result of this PUD amendment shall be fitted with a fire sprinkler system meeting the requirements of the Basalt and Rural Fire Protection District.
10. All exterior lighting shall comply with the Town's exterior lighting requirements established in Town Code Article XX of Chapter 16, *Zoning: Exterior Lighting*.

Fees and Surcharges:

11. The Applicants shall be required to pay the following fees and assessments as part of building permit submittal:
 - a. All building permit fees including the Special Improvements Fee, pursuant to Section 18-14 of the Town Code, as determined by the Town's Building Official; and,

- b. All fees and assessments as required by the Basalt and Rural Fire Protection District; and,
- c. All fees and assessments as required by the Basalt Sanitation District.

Vested Rights and Amendments:

12. Vested property rights shall be granted for the construction of the joint use garage with the residential space above it for a period of three years from the effective date of the ordinance approving this PUD amendment and amended plat. The Applicants may request an extension of vested rights pursuant to the process for extending vested rights as established in the Town Code. If a building permit is not issued within the three (3) year vested rights period or as it may be extended, the site specific approval for the joint use garage with the residential space above it shall expire. The minor subdivision approval and the PUD amendment to add Lots 8 and 9 as properties permitted to have a joint use garage shall survive an expiration of vested rights if the Amended Plat is executed in accordance with the requirements of Condition 8.
13. The Town Planner may review and approve minor amendments to this approval to effectuate the intent of the final development approvals. The Applicants shall have the ability to appeal a Town Planner's decision on a minor amendment to the Town Council at a public meeting in which (15) days written notice of the public meeting has been provided to the Applicants.
14. If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance and the Town Council hereby declares it would have passed this Ordinance and each part, section, subsection, sentence, clause or phrase thereof regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

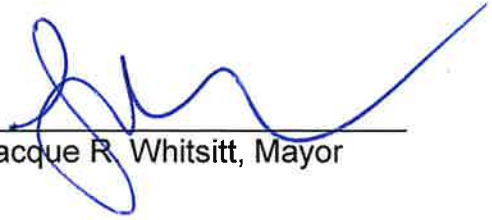
READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON July 23, 2013 by a vote of 7 to 0 on July 9, 2013.

READ ON SECOND READING AND ADOPTED, by a vote of 6 to 1 on July 23, 2013.

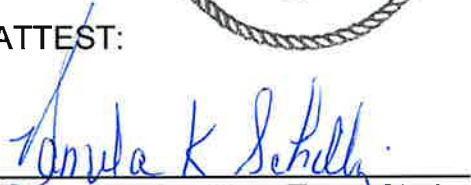


TOWN OF BASALT, COLORADO

By:


Jacquie R. Whitsitt, Mayor

ATTEST:


Pamela K. Schilling, Town Clerk

Ord8-Lots8_9FryingPanVillage
Bill to: 10-24-450

First Publication: Thursday, July 18, 2013
Final Publication: Thursday, August 1, 2013
Effective Date: Thursday, August 15, 2013