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F) Draft
Ordinance
(Note: This is
same Ord. as
presented on
Oct. 18th)

TOWN OF BASALT, COLORADO
ORDINANCE NO. 26
SERIES OF 2016

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO, REINSTATING AND AMENDING THE 2009 STOTT'S MILL DEVELOPMENT APPROVALS FOR THE SINGLE-FAMILY PORTION OF THE STOTT'S MILL DEVELOPMENT, INCLUDING UP TO 61 DWELLING UNITS, A PUBLIC FACILITY/DAYCARE, AND THE DEDICATION AND IMPROVEMENT OF RIGHTS-OF-WAY AND PARKS ON THE SINGLE-FAMILY PORTION OF THE STOTT'S MILL PROPERTY AND GRANTING SKETCH SITE PLAN APPROVAL FOR THE MULTI-FAMILY PORTION OF THE DEVELOPMENT FOR UP TO 96 ADDITIONAL DWELLING UNITS, TOGETHER WITH EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE TOWN OF BASALT AND PROVIDING INITIAL TOWN ZONING FOR THE SINGLE-FAMILY PORTION OF THE STOTT'S MILL DEVELOPMENT

RECITALS:

A. On or about February 8, 2016, a Petition for Annexation (the "Petition") and an Annexation Map were filed with the Town of Basalt by MSP 1 LLC. ("Applicant") on behalf of Alice Stott, owner ("Petitioner") of 100% of the land area described in the Petition and known as Stott's Mill. The legal description of the Property is attached hereto and incorporated herein by this reference as **Exhibit A** (the "Property").

B. The Town Council is considering the reinstatement and amendment of the approval granted in 2009 pursuant to Ordinance No. 18, Series of 2009 for the single-family portion of the development and a Sketch Site Plan review for the Multi-Family portion of the Development proposal.

C. The Planning and Zoning Commission considered the requests at a public hearing beginning on July 15, 2016, and continuing through August 16, 2016. Throughout the meetings, evidence and testimony was offered by the Applicant, Staff and members of the public. The Planning and Zoning Commission recommended that Town Council approve the reinstatement of the Final PUD Plan for the single-family portion of the development and approve the sketch site plan review for the multi-family portion of the development.

D. At a public hearing held on September 27, 2016, the Town Council considered the application on first reading and continued the public hearing and first

g. The proposed annexation will not have the effect of extending a municipal boundary more than three miles in any direction from any point of the current municipal boundary except with respect to a parcel of property held in identical ownership at least 50% of which is within the three mile limit.

2. The Petition has been signed by the owners of more than 50% of the Property.

3. No additional terms or conditions with regard to the requested annexation are imposed except pursuant to an annexation agreement approved and agreed to by 100% of the owners.

4. An annexation election is not required and the Town is authorized pursuant to § 31-12-111, C.R.S., to annex the area described in the Petition by Ordinance.

5. Pursuant to Sections 31-12-108 & 31-12-109, C.R.S., notice and hearings were conducted.

6. The property subject to the application is located completely within the Town's Urban Growth Boundary established in the 2007 Basalt Master Plan.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Basalt:

1. The Town Council incorporates the recitals and all exhibits as references, findings of fact, determinations, and conclusively makes all of the findings of fact, determinations and conclusions contained herein and a determination pursuant to C.C.R. 29-20-301 that there is adequate water supply.

2. The Property described as the single-family portion of the development in the Petition and described on **Exhibit A** attached hereto is hereby annexed to and made a part of the Town of Basalt, Colorado; the Annexation Map of the Property and including other tracts annexed simultaneously herewith is approved; and the Mayor and Town Clerk are authorized to execute the Annexation Map. The multi-family portion of the development will not be approved for annexation until it receives final development approvals.

3. The annexation of the Property is expressly conditioned on the execution and recording of the Annexation Agreement between the Town and MSP 1 LLC,. If the Annexation Agreement shall not be executed and recorded within 180 days of the effective date hereof, this Ordinance shall be void and of no further effect and the Property shall not be annexed. The Annexation Agreement is incorporated herein by reference and is hereby approved with such reasonable changes and modifications as are not inconsistent herewith and as are expressly approved by the Town Planner and

8. The approvals and conditions contained herein shall be binding on and inure to the benefit of the heirs, successors and assigns of the Applicant and the owners of the Property.

9. This Ordinance, after fully executed, shall be recorded in the office of the County Clerk and Recorder.

10. 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 TUESDAY, _____, 2016, by a vote of __ to __ on October 18, 2016.

READ ON SECOND READING AND ADOPTED, by a vote of __ to __ on _____, 2016.

TOWN OF BASALT, COLORADO

By: _____
Jacque R. Whitsitt, Mayor

ATTEST:

By: _____
Pamela K. Schilling, Town Clerk

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First Publication: Thursday, _____, 2016

III. Prior Meetings:

The Town Council has discussed the following topics over a series of three (3) Council meetings:

1. *Density*- Council provided initial feedback that 156 units is more appropriate than 204 units
2. *Childcare Contribution*- Council provided initial feedback that a 4,000 square foot core and shell daycare space to be rented to daycare providers is an appropriate contribution.
3. *Traffic Mitigation*- Council provided initial feedback that the Applicant should be required to contribute funds on a fair-share basis based on traffic generation to the construction of a mini-roundabout at Basalt Avenue/Cody Lane, which equals a contribution of approximately \$165,000 based on a \$500,000 roundabout construction cost. The Town is also considering the installation of the laneage improvements as identified in the Southside Traffic Study in conjunction with the Basalt Avenue Pedestrian Underpass improvements that would result in three (3) lanes out of southside and two (2) lanes into southside, which would be an increase of one additional lane in and out of southside.
4. *Southside Drive Cross-Section*- Council provided initial feedback that the Southside Drive Cross-Section developed by the Pitkin County Open Space and Trails in conjunction with the Town's POST Committee was acceptable. The cross-section includes an eight-foot wide concrete path and parallel parking on the east side of the street and a dedicated bike lane on the west side of the street.
5. *Southside Drive Traffic-Calming*- Staff is working on plan for Southside Drive Traffic-Calming that will be presented as part of the Final Plan Review on the Multi-family Development.
6. *Financial Analysis*- Bruce Kimmel of Ehlers Public Finance presented the results of his financial analysis before the Thanksgiving Holiday. The conclusion was that the proposed development does not present an unreasonable rate of return and that there are not significant red flags with the Applicant's ability to carry out the development.
7. *Allison Lane Connection*- Town Staff has worked with the Fire District to obtain the District's acceptance on a pedestrian connection between the Stott's Mill Development and the Southside Subdivision on Allison Lane that will contain removable bollards so that the connection could be used for vehicular traffic in an emergency situation. The majority of the Council expressed acceptance of this solution.

IV. Items Requiring Additional Discussion:

Staff has identified the following items that require additional consideration at this meeting:

requires that the annexation and development of the single-family portion of the project be contingent on the Applicant receiving final approvals on the multi-family portion of the development and recognizes that additional changes could occur to the single-family portion of the development. Any feedback received between sketch and final plan review would still be helpful in determining the outcome of the development review.

There were three (3) public hearings held at the P&Z level of review and this is third public hearing scheduled before the Town Council. Comments were received from individuals residing in southside and Staff, the Applicant, and the P&Z have tried to respond to the comments received. Staff believes that the Council has the following options:

- a. Take action on Ordinance No. 26, Series of 2016 and allow the open houses with southside to occur between the sketch and final plan reviews on the multi-family portion of the development; or,
- b. After deliberating on the draft conditions at this meeting, continue the public hearing and second reading of the ordinance to January 26, 2017 to allow for open houses to be held for southside residents before approval of Ordinance No. 26.

V. Planning and Zoning Commission Recommendation:

The Planning and Zoning Commission recommended approval with the conditions included in the draft ordinance with the exception that the P&Z supported inclusion of the Tennis Center. Since the tennis center is no longer proposed, the P&Z indicated that they supported the POST recommendation of having an active South Park in the event that the Tennis Center was not built.

VI. Recommendation:

Staff recommends that the Council hear a presentation of the remaining discussion items from Staff and take Applicant comments. Staff then recommends taking public comments and providing discussion on the remaining discussion items. Staff has attached the draft Ordinance for the Council's consideration.

reading to October 18, 2016. At the continued public hearing and first reading on October 18, 2016, the Council continued the public hearing and first reading to November 15, 2016. At a continued public hearing and first reading on November 15, 2016, the Town Council approved the ordinance on first reading and set a public hearing and second reading for the ordinance for December 13, 2016.

E. At a continued public hearing and second reading on _____, 2016, the Town Council heard evidence and testimony as offered by the Town Staff and members of the public.

F. The Town Council finds and determines it is in the best interests of the Town to approve the application. The Town Council finds and determines the annexation of the Property and approval of this ordinance is reasonably necessary to promote the legitimate public purposes of the public health, safety and welfare.

G. The Town Council finds that the Property is eligible for annexation in accordance with the Municipal Annexation Act and including the following findings:

1. The applicable requirements of §§ 31-12-104 and 31-12-105, C.R.S., have been met and satisfied including the following:
 - a. Not less than one-sixth of the perimeter of the Property is contiguous to the Town of Basalt, Colorado;
 - b. A community of interest exists between the Property and the Town of Basalt, Colorado;
 - c. The Property is urban in character or will be urbanized in the near future;
 - d. The area proposed for annexation is integrated with or capable of being integrated with the Town;
 - e. In establishing the boundaries of the area proposed for annexation, no land held in identical ownership whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate has been divided into separate tracts or parcels.
 - f. No tract or parcel of real estate comprising twenty (20) acres or more with an assessed valuation including buildings and improvements in excess of two hundred thousand dollars (\$200,000.00) for ad valorem taxes for the previous year has been included within the area proposed for annexation without the written consent of the land owner; and

such reasonable changes and modifications as are not inconsistent herewith and as are expressly approved by the Town Planner and the Town Attorney to effectuate the intentions of the parties or to comply with applicable law. The Mayor or Mayor Pro Tem of the Town are hereby authorized and directed to execute, and the Town Clerk or any deputy Town Clerk are authorized to authenticate and affix the seal of the Town to the Annexation Agreement, and the Town Manager is further authorized to execute and authenticate such other documents, instruments or certificates as are deemed necessary or desirable in connection therewith. The execution of any instrument by said officials shall be conclusive evidence of the approval by the Town of such instrument in accordance with the terms of such instrument and this Ordinance. The Town Planner may extend the Annexation Agreement deadline at the request of the Applicant.

4. The Town Clerk of the Town of Basalt, Colorado, on behalf of the Town shall comply with the filing and recording requirements of Section 31-12-113, C.R.S.

5. The Town hereby approves the land use approvals necessary to reinstate and amend the 2009 approvals on the Single Family portion of the development, including the parks, the daycare, and the roads. The Single Family portion of the Project is rezoned as follows and is hereby approved subject to the conditions set forth in **Exhibits B-K** attached hereto and the Applicant obtaining final approval on the multi-family portion of the development:

- a. R-3 TN with a PUD overlay shall apply to all of the single-family lots.
- b. P Public Zone District/R-3 TN with a site plan approval shall apply to Lots 37 and 38, Block 4 that are to accommodate the 4,000 square foot public facility and associated outdoor play area, with potential reversion to dwelling units.
- c. P Public Zone District for the two public parks.

6. An approval packet comprised of the Stott's Mill Annexation Agreement; this Ordinance No. 26, Series of 2016; the Stott's Mill Master Subdivision Improvements Agreement, a copy of the Final Plat for Stott's Mill; and each of the documents approved by this Ordinance and Exhibits thereto shall be assembled by the Applicant, reviewed for completeness by the Town Planner and when determined complete, shall be noted as such in writing by the Applicant and the Town Planner and labeled "Final Development Approval" for the single-family portion of the development, which shall be available for review at the office of the Town and is incorporated herein by this reference as if set forth in full. The Applicant shall comply in all respects with the Final Development Approval.

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TOWN OF BASALT, COLORADO

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Jacque R. Whitsitt, Mayor

ATTEST:

By: _____
Pamela K. Schilling, Town Clerk

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