

**Town of Basalt, Colorado
Ordinance No. 08
Series of 2018**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,
COLORADO, GRANTING SPECIAL REVIEW APPROVAL FOR THE
DEVELOPMENT OF AN ACCESSORY DWELLING UNIT (ADU) ON A
PARCEL LOCATED AT 105 W. SOPRIS DRIVE, BASALT, COLORADO
(REESE APPLICATION)**

RECITALS

A. The Town of Basalt ("Town"), acting by and through its Town Council ("Town Council"), has the power to grant Special Review approvals. Barbara Reese ("Applicant") applied to the Town in February 2018, requesting approval of Special Review to allow for an ADU to be constructed on a residential site at 105 W. Sopris Drive, Basalt, Colorado, legally described as Lot A, Block 30 and the North 100 feet of Block 32.

B. The Planning and Zoning Commission considered the application at a public hearing held on April 17, 2018. Throughout the meeting, evidence and testimony was offered by the Applicant, Staff and members of the public. The Planning and Zoning Commission recommended that the Town Council approve the request for Special Review.

C. At a public hearing held on April 24, 2018, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicant, and members of the public. At the public hearing held on April 24, 2018, the Town Council considered this Ordinance on first reading and set a public hearing and second reading for this Ordinance for May 8, 2018 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 May 8, 2018, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicant, 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. The Town Council finds and determines this Ordinance is reasonable and consistent with the Town Code. 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 findings provided herein.

1. Based on the evidence, testimony, exhibits, and comments from the public, Applicants and Town Staff, the Town Council finds and determines in accordance with Section 16-44(f) of the Town Code, as follows:

a. The Town Council finds that the Applicant's request is consistent with the applicable provisions of the Town Code, provided the Applicant adheres to the conditions identified in this Ordinance.

b. The Application satisfies the requirements of Section 16-44(f) of the Town Code, provided the Applicant adheres to the conditions herein, because the Application is in general compliance with the Town Code; the proposed use is compatible with the character of the surrounding area; the proposed use is generally desirable and needed in this area; the proposed use does not create significant potential for adverse environmental influences; the proposed use is compatible with the Town Master Plan; and the proposed use is compatible with the natural characteristics and constraints of the Property.

B. APPROVAL AND CONDITIONS.

Special Review to permit an Accessory Dwelling Unit above a garage at 105 W. Sopris Drive is hereby approved, 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.

Development Program:

3. The requirements approved for the Site Plan are as follows:

Dimensional/Other Requirements		
Minimum Lot Area	10,750 sq. ft.	
Building Height	ADU	20' to midpoint, 24' to ridge
	Primary Residence	24' to midpoint, 28' to ridge
Number of Stories	2	
Front Yard Setback	10' covered porch, 15' living area, 20' garage	
Rear Yard Setback	10'	
Side Yard Setback	10'	
FAR	.35:1	
Maximum Lot Coverage	30%	
Minimum Landscape	20% (2,150 sq. ft.)	
ADU Size	440 sq. ft.	
Parking	Main house – 3 (1 in garage, 2 exterior to main house) ADU – 1 (in garage)	

Construction Management Plan:

- The Applicant shall submit a final construction management plan for review and approval by the Town Planner and Town Building Official prior to commencing construction activities on the site. The construction management plan shall include construction parking and dust mitigation measures and a representation that the Applicant will comply with the allowable construction hours as established in the Town Code. Any construction trailer shall not house workers overnight.

The Applicant has represented that the apricot trees adjacent to the Spur Lane and Sopris Drive frontages are intended to be preserved. The Applicant shall erect tree protection fencing around the dripline of the apricot trees to be preserved and contact the Town Planning Department to inspect the tree protection fencing prior to commencing construction activities.

Deed Restriction:

5. The Applicant has proposed to deed-restrict the property so that one of the two residential dwelling units is to be occupied by a resident as their primary residence consistent with the Town Code requirements, which allows the Parkland Dedication fees to be waived. The deed restriction shall be filed and recorded with the Eagle County Clerk and Recorder prior to the issuance of a certificate of occupancy for the ADU.

Development and Building Fees:

6. The Applicant shall pay all applicable development review fees, as calculated by the Town Planner and Building Official, prior to building permit issuance. The Parkland Dedication fee for the ADU is waived as a result of the ADU being deed-restricted as per Section 16-27 of the Municipal Code. Additionally, Town Code Section 17-16, School district land dedication requirements, assumes zero students are generated by ADUs for the purpose of calculating the school land dedication fees. Therefore, the proposed ADU shall not require payment of School Land Dedication fees.

Approval Documents:

7. The Applicant shall prepare a site plan and draft deed restriction for review and approval by the Town Planner and Town Attorney. The site plan shall be recorded at the Eagle County Clerk and Recorder's Office prior to the issuance of a building permit. The ADU deed restriction designating that one of the two units on the site will be occupied by a resident as their primary residence shall be recorded at the Eagle County Clerk and Recorder's Office prior to the issuance of a certificate of occupancy for the ADU.
8. The Applicant shall prepare and submit any additional approval documents deemed necessary by the Town Planner and Town Attorney to effectuate the intent of the approvals. Any such documents shall be executed and recorded prior to the earlier of the issuance of a building permit or 180 days after the effective date of the final approval ordinance. If the Applicant does not execute and record the necessary approval documents within 180 days or receive an extension from the Town Planner, the approvals shall expire.

Insubstantial Amendments:

9. The TRC may approve minor amendments to this approval to effectuate the intent of the final development approvals. The Applicant shall have the ability to appeal the TRC's decision on a minor amendment to the Town Council pursuant to the appeals process established in Town Code Section 16-11, Procedures for code interpretations and appeals.

Compliance with Referral Comments:

10. The Applicant shall demonstrate compliance prior to building permit with the following referral requirements, as found in Exhibit B of the April 24, 2018 Staff memo to Town Council.
 - a) Referral comments by Brooke Stott of the Basalt and Rural Fire Protection District, dated April 11, 2018 and April 2, 2018. The trimmed trees will be inspected and approved by the Fire District to ensure their compliance with the required regulations prior to receipt of certificate of occupancy for the ADU. Furthermore, after the necessary branches and limbs are trimmed from the trees overhanging Tucker Lane, if the existing communications lines are found to impede access to Tucker Lane, these shall be mitigated by the Applicant prior to issuance of a certificate of occupancy on the ADU.
 - b) Compliance with the electrical plan as outlined in the site plan and approved by Holy Cross, dated 4/11/2018.
 - c) Referral comments by Public Works, dated 3/22/2018.

Building Regulations:

11. The project shall be subject to the requirements of the Building Code, including Sustainable Building Regulations, in affect at the time of building permit submittal. The Applicant shall not submit for building permit until after the effective date of the approval.

Vested Rights:

12. Vested rights shall be granted for a period of three (3) years from the effective date of the ordinance approving the site plan. If the Applicant does not obtain a building permit within three years from the effective date of the final approval, the approval shall be null and void. The

Applicant may request an extension of vested rights pursuant to the process for extending vested rights in the Town Code.

C. MISCELLANEOUS.

1. 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 owner of the Property.

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

3. 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 May 8, 2018 by a vote of 7 to 0 on April 24, 2018.

READ ON SECOND READING AND ADOPTED, by a vote of 7 to 0 on May 8, 2018.

TOWN OF BASALT, COLORADO

By:


Jacquie R. Whitsitt, Mayor

ATTEST:


Pamela K. Schilling, Town Clerk



First Publication: May 3, 2018
Final Publication: May 17, 2018
Effective Date: May 31, 2018