

**Town of Basalt, Colorado
Ordinance No. 18
Series of 2018**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,
COLORADO, GRANTING SPECIAL REVIEW AND SLOPE REVIEW APPROVALS
TO BARBARA AND PAT MCMAHON FOR GROUND-MOUNTED SOLAR ARRAYS
AT 208 RIDGE ROAD, BASALT, COLORADO**

RECITALS

A. The Town of Basalt ("Town"), acting by and through its Town Council ("Town Council"), has the power to grant Special Review and Slope Review approvals. Barbara and Pat McMahon ("Applicants") applied to the Town in September of 2018 requesting approval of a Special Review and Slope Review to install ground-mounted solar arrays at 208 Ridge Road, Lot 5 of Basalt Highlands, Basalt, Colorado (the "Property").

B. The Planning and Zoning Commission considered the application at a public hearing held on October 2, 2018. Throughout the meeting, evidence and testimony was offered by the Applicants and Staff. The Planning and Zoning Commission recommended that Town Council approve the proposed application with conditions.

C. At a public meeting held on October 23, 2018, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicants, and members of the public. At the public meeting held on October 23, 2018, the Town Council considered this Ordinance on first reading and scheduled a public hearing and second reading for this Ordinance for November 13, 2018, for a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

D. 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.** Based on the evidence, testimony, exhibits, and comments from the public, Applicants, and Town Staff, the Town Council makes the following

findings and determinations in accordance with Sections 16-44 and 16-187 of the Town Code. The Town Council hereby incorporates by reference and conclusively makes the findings provided herein.

1. The Town Council finds that the Applicants' request is consistent with the applicable provisions of the Town Code, provided Applicants adhere to the conditions identified in this Ordinance.
2. The Application satisfies the requirements of Section 16-44, Town Code, provided the Applicants adhere 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, Eagle County Climate Change Action Plan, and the Basalt Addendum to the Eagle County Climate Change Action Plan; there is no encroachment of development on the property in areas with slopes in excess of 30%; and the proposed use is compatible with the natural characteristics and constraints of the Property.
3. The Application is consistent with the standards of review found in Section 16-4 and 16-187, provided the Applicants adhere to the conditions herein, because the Application is consistent with the Town Master Plan, Eagle County Climate Change Action Plan, and the Basalt Addendum to the Eagle County Climate Change Action Plan; it will not have environmental impacts such as traffic hazards and will not overload utilities or otherwise be detrimental to the general welfare of the community; and the proposal will complement and be integrated with the existing development in the area.

B. CONDITIONS.

A Special Review and Slope Review to install two ground-mounted solar arrays, consisting of 46 total panels, at 208 Ridge Road 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.

Glare from Solar Panels:

3. The Applicant shall use the best available technology to reduce glare from the solar panels to the greatest extent possible.
4. Glare shall not be transmitted off the property. If it is determined at the sole discretion of the Town that glare is being generated by the panels that can be detected outside property boundaries, then the Applicant shall submit and implement a mitigation plan for review and approval by the Town within 30 days of being provided notice by the Town that a mitigation plan is needed.

Fire District Comments:

5. A 10-foot brush-free area shall be maintained around the solar arrays for emergency access purposes. This area shall be maintained brush-free by the owners and their successors as long as the installation is in place.
6. The disconnect/service panel shall be signed and visible from the driveway or next to the main shutoff at the residence.
7. The Applicant shall demonstrate compliance with Deputy Fire Marshall Brooke Stott's comments dated September 26, 2018, to the satisfaction of the Town Planner.

Holy Cross Energy Comments:

8. The Applicant shall continue to work with Holy Cross Energy and supply them with information as may be required in order to successfully connect to the Holy Cross power grid.

Vegetation Preservation, Landscaping, and Exterior Lighting:

9. Per the Fire District's recommendations, the Applicant shall obtain tree removal permits for the two trees that will be removed. Such permits shall be obtained prior to removal. The Applicant shall mitigate for the trees to be removed to the satisfaction of the Public Works Director. The Applicant shall only remove the trees specified by the Fire District for removal. The Applicant shall institute best management practices with regards to erosion and sediment control. Any exterior lighting shall be in compliance with the Town's exterior lighting ordinance.

Slope Stability:

10. All equipment installed shall be securely attached to the ground using concrete bases or similarly robust methods. The Applicant shall erect construction fencing supported by T-posts along the width of the installation and beneath the construction activities for the purpose of catching rocks that might fall during construction. The Applicant shall contact the Building Inspector to inspect the construction fencing before commencing construction.

Development and Building Fees:

11. The Applicant shall pay all applicable development review fees on the minor utility facility, as calculated by the Town Planner, prior to building permit issuance. The Applicant shall also pay all applicable building permit fees as calculated by the Town Building Official prior to building permit issuance.

Approval Documents:

12. The Applicant shall prepare a site plan for review and approval by the Town Planner and Town Attorney. The site plan shall be executed and recorded at the Eagle County Clerk and Recorder's Office prior to the issuance of a building permit.
13. 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.

Vested Rights:

14. Vested property rights shall be granted as approved herein for a period of three (3) years from the effective date of the ordinance approving these land use requests. The Applicant 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 for the solar arrays is not issued within the three (3) year vested rights period or as it may be extended, the approvals granted for this amendment shall expire.

Insubstantial Amendments:

15. The Town Planner may review and approve minor amendments to this approval to effectuate the intent of the final development approvals. The Applicant shall have the ability to appeal a Town Planner'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*.

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 Applicants and the owners 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 TUESDAY, November 13, 2018, by a vote of 6 to 0 on October 23, 2018.

READ ON SECOND READING AND ADOPTED by a vote of 7 to 0 on November 13, 2018.

TOWN OF BASALT, COLORADO

By:



Jacques R. Whitsitt, Mayor

ATTEST:



Pamela K. Schilling, Town Clerk



First Publication: Thursday, November 1, 2018
Final Publication: Thursday, November 22, 2018
Effective Date: Friday, December 6, 2018