

**Town of Basalt, Colorado  
Ordinance No. 01  
Series of 2019**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,  
COLORADO, GRANTING SPECIAL REVIEW, SITE PLAN, SOUTHSIDE  
REACH II ESA FLOODPLAIN, AND COMMUNITY HOUSING APPROVALS  
FOR THE DEVELOPMENT OF A MIXED-USE PROJECT ON LOT S, BASALT  
BUSINESS CENTER SOUTH PUD, ALSO KNOWN AS AT 525 BASALT  
AVENUE, BASALT, COLORADO (LAAM 525, LLC APPLICATION)**

RECITALS

A. The Town of Basalt ("Town"), acting by and through its Town Council ("Town Council"), has the power to grant Special Review, Site Plan, Southside Reach II ESA Floodplain, and Community Housing approvals. LAAM 525, LLC ("Applicant") applied to the Town in June 2018, requesting Special Review, Site Plan Review, Southside Reach II ESA Floodplain Review, and Community Housing Review approvals to allow the construction of a mixed-use building containing eight (8) one-bedroom residential dwelling units and approximately 8,000 square feet of industrial/commercial space at 525 Basalt Avenue, Basalt, Colorado, and more specifically described as Lot S of the Basalt Business Center South PUD.

B. The Planning and Zoning Commission considered the application at a public hearing held on December 4, 2018. Throughout the meeting, evidence and testimony was offered by the Applicant and Staff. No members of the public wished to speak. The Planning and Zoning Commission recommended that Town Council approve the proposed application with conditions by a vote of 5 to 0.

C. First Reading of this Ordinance was scheduled before the Town Council on January 8, 2019. The public hearing was continued until January 22, 2019 at the request of the Applicant, and with the approval of the Town Council.

D. At a public hearing held on January 22, 2019, 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 January 22, 2019, the Town Council considered this Ordinance on first reading and continued and set a public hearing and second reading for this Ordinance for February 12, 2019 for a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

Please return to:  
TOWN OF BASALT  
101 Midland Avenue  
Basalt, CO 81621



**RECEPTION#: 657473, R: \$63.00, D: \$0.00**  
**DOC CODE: ORDINANCE**  
**Pg 1 of 11, 07/24/2019 at 04:05:35 PM**  
**Janice K. Vos Caudill, Pitkin County, CO**

E. At a public hearing and second reading on February 12, 2019, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicant, and members of the public.

F. 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 finds and determines in accordance with Sections 16-44(f), 16-111(b), 16-463(4) and 16-411, and Town Code, as follows, which Town Council hereby incorporates by reference:

1. 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.
2. 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 Council's Master Plan; and the proposed use is compatible with the natural characteristics and constraints of the Property.
3. The Application satisfies the requirements of Section 16-111(b) of the Town Code, provided the Applicant adheres to the conditions herein, because the Application is in general compliance with the Town Code; it is found to be generally consistent with Town Council's Master Plan; it will not create any adverse environmental impacts; and the project will complement and be integrated with the existing development in the area.
4. The Application satisfies the requirements of Section 16-463(4) of the Town Code, provided the Applicant adheres to the conditions herein, because the Application is in general compliance with the Town Code; a letter of certification from the Engineer of Record has been received

stating the development will not increase the 100-year floodplain elevations as measured at the closest adjacent land areas not owned by the Applicant; the improvements satisfy the Town's zero rise floodplain ordinance; and the Applicant has submitted a floodplain development permit.

5. The Application satisfies the requirements of Section 16-411 of the Town Code, provided the Applicant adheres to the conditions herein, because the Application is in general compliance with the Town Code; the Applicant will deed-restrict 50% of the total residential units (four out of the eight units) at a Category 2 rental rate, which is 41% of the overall residential floor area, and which exceeds the Town's inclusionary housing requirements of at least 20% of the total residential units and 25% of the residential floor area requiring deed restriction.

**B. APPROVAL AND CONDITIONS.**

Council hereby approves Special Review, Site Plan Review, Southside Reach II ESA Floodplain Review, and Community Housing Review to permit a mixed-use building, including eight (8) residential units at 525 Basalt Avenue, 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 ("P&Z") and Town Council.

**Development Program:**

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

Dimensional Requirement	
Min. Lot Area	23,200
Building Height	33'
Ridge Height	33'
Elevator Height	36'
# of Stories	3
Lot Width	100'

Front Yard Setback	25'
Rear Yard Setback	30'
Side Yard Setback	10'
FAR	.67:1
Max Lot Coverage	no requirement
Min Landscape	19%
Parking	31 spaces (see Conditions 8 - 10)
Residential Unit Size	790.50 sq. ft.

4. Final construction plans shall be generally consistent with the elevation drawings and site plan prepared by Black Shack Architects dated November 25, 2018.

**Industrial Site Plan Review:**

5. The Special Review for residential units is approved. The Applicant shall include language in each of the rental leases providing that children 16 years of age and under shall be prohibited from residing in the residential units. If special circumstances exist a tenant may make a request to the Town's Special Housing Evaluation Committee (SHEC) to temporarily allow children to occupy the unit.
6. The residential units are not permitted to be short-term rental units pursuant to Section 16-203(c) of the Code.
7. The Applicant shall include language in each of the rental leases disclosing to all the pre-existence of industrial and light industrial land uses adjacent to the site and that associated impacts include, but not limited to, noise, and further acknowledging the likely continuation of said industrial and light industrial land uses. This language shall be reviewed and approved by the Town Planner and the Town Attorney.
8. Uses permitted in the IN-zone district are permitted in the industrial spaces except as restricted herein.

Due to limited parking on the site and the lack of on-street parking adjacent to the subject site, the following uses require approval of a parking demand management plan by the TRC. The TRC may elevate the review of a parking demand management plan to the P&Z.

- a. Office for conduct of a business or profession (Note: a contractor shop/office does not require a parking demand management plan);
- b. Mini-storage warehouse;
- c. Cold storage lockers;

- d. Catalog sales outfit;
- e. Vocational/trade school;
- f. Health club; and
- g. Shop for electrician, plumber, and similar services as determined by the Town Planner.'
- h. Small food service business, as defined below.
- i. Similar uses as determined by the Town Planner

The following uses are prohibited in the industrial spaces:

- a. Contractor supply yard;
- b. Restaurants, other than a small food service business, and including night club and bar.
- c. Daycare facility;
- d. Medical Offices;
- e. Automobile sales and general leasing;
- f. Automobile repair/painting/body work;
- g. Gas station;
- h. Facilities for research, processing, fabrication, manufacturing, repair, cleaning and assembly of:
  - i. Steel;
  - ii. Musical instruments; and
  - iii. Furniture.
- i. Shop for blacksmith, cabinets and furniture, glazing, sheet metal, upholstery, welding, general repair and similar uses as determined by the Town Planner.
- j. Medical marijuana center premises and retail marijuana store; and
- k. Any other use not listed above.

Small food service business for the purpose of this ordinance is defined as a coffee shop or food service business limited to those that do not require restaurant grease vent hoods, do not involve grilling and frying equipment, and do not require full size restaurant ovens, stoves, or other similar equipment typical of a full kitchen. Food service preparation which may include heating, toasting, and micro-waving activities is permitted. The Town's Chief Building Official will make interpretations as necessary regarding the type of equipment allowed pursuant to this condition.

9. The Applicant shall provide two additional parking spaces as shown on the site plan within the side yard setback on the north side of the property unless it is proven that it cannot be accomplished. The Applicant shall submit a parking signage plan for review by the TRC

prior to permit issuance. Residential parking shall have assigned one space per unit.

10. The Applicant shall submit a parking signage plan for the development for approval by the Town Planner prior to Building Permit. Any changes to the parking signage plan after Building Permit shall require approval by the Town Planner. The plan must assign one parking space for each residential unit. The Applicant shall work with the Town Planner as necessary should the Town receive parking-related complaints.

**Lighting:**

11. The Applicant shall shade, tint, or otherwise prevent significant light trespass or glare from all upward-facing windows as shown on the building's western-most façade to the satisfaction of the Town Planner.
12. The Applicant shall install a street light adjacent to the entry of the lot. The Applicant shall work with the Town's Planning Staff to determine the appropriate style and specification for the installation of lighting at this location.

**Transportation:**

13. Project Transportation Fee: 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 based on the following schedule:

<b>Unit Type</b>	<b>Fee (per total square foot)</b>
<i>Free-Market Residential</i>	
Detached	\$1.08
Attached (includes duplexes)	\$.89
<i>Community Housing</i>	
Detached	\$.57
Attached (Includes duplexes)	\$.44
<i>Commercial/Industrial</i>	\$1.00

14. Basalt Avenue/State Highway 82 Intersection Improvements: The Applicant shall pay its fair share of the traffic improvements selected by the Town to increase traffic flow out of Southside based on the Applicant's fair-share of the trips identified in the Southside Traffic Study conducted by SGM on 10/14/2016 as further described below.

The Applicant shall pay a fee in the amount of \$944 for each of the multi-family units, and a fee in the amount of \$1,568 for the industrial floor area at the time of building permit at Cody Lane and Basalt Avenue ("Mini Roundabout Improvement"). This is in addition to the impact fees included in Condition No. 13, above.

If before the issuance of the building permit, the Town decides that a different improvement is more appropriate, the Town Council may adjust the fee amounts (either higher or lower) to cover the cost of such improvement. The funds may be used at the Town's sole discretion on any improvement the Town deems appropriate which would increase the traffic flow out of Southside.

The Town is assuming 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, unless the Town Engineer certifies a lower cost, the Applicant's fair share of the cost of the Mini Roundabout Improvement is \$9,120. The Applicant shall prepare and submit for the Town an updated access permit with CDOT if required by CDOT prior to recording the necessary approval documents outlined in Condition No. 26 and No. 27.

**Odor/Noise Mitigation:**

15. Odor and noise generated from the industrial uses shall not be transmitted out of the industrial spaces. After commencing operations in the industrial spaces, if a use is determined at the sole discretion of the Town as generating excessive odor/noise, then the Applicant shall submit and implement an odor/noise mitigation plan for review and approval of the Town within 30 days of being provided notice by the Town that an odor/noise mitigation plan is needed.

**Car/Bike Share Fee:**

16. The Applicant or successors shall pay \$250 per dwelling unit at the time of building permit to the Town for use in implementing a carshare program or other green initiative, such as bikeshare.

**Construction Management Plan:**

17. The Applicant shall submit construction management plan in conjunction with the Final site plan review application. 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. The construction trailer shall not house workers overnight.

**Building Code:**

18. The Applicant shall comply with all applicable regulations of the Building Code, including the Sustainable Building Regulations, in place at the time of Building Permit submittal.

**Deed-restricted and Accessible Housing:**

19. The Applicant shall deed-restrict four of the eight residential units at a Category 2 rental rate in accordance with the Town of Basalt's Community Housing Guidelines. The deed-restriction shall be reviewed for approval by the Town Planner and Town Attorney and be recorded with the Pitkin County Clerk and Recorder prior to receipt of Certificate of Occupancy.
20. At least one residential unit shall meet the standards for handicapped accessibility in accordance with the requirements of the American National Standards Institute (ANSI/ICC A117.1-09) to the satisfaction of the Chief Building Official. The accessible unit shall be located on the lowest residential level and shall be included among the deed-restricted Category 2 rental units.

**Basalt Sanitation District:**

21. The Applicant shall demonstrate compliance with Basalt Sanitation District's rules and regulations and compliance with Basalt Sanitation District Engineer Wyatt Popp's comments dated August 22, 2017 as part of Final Site Plan application. The Applicant shall also pay tap fees for each unit at the time of Building Permit issuance.

**Southside Floodplain Reach II ESA:**

22. The Applicant shall demonstrate compliance with the findings of the Matrix Design Group/Krehbiel October 11, 2018 report and confirm appropriate site grading and drainage swale design to ensure the development satisfies the zero-rise requirements and will not negatively impact adjacent properties prior to Building Permit.



**Fire District:**

23. The Applicant shall demonstrate compliance with all comments made by the Basalt Fire Protection District in the October 30, 2018 letter concerning aerial access for fire truck turnaround.

**Development and Building Fees:**

24. The Applicant shall pay all applicable development review fees, as calculated by the Town Planner, prior to building permit issuance, including the payment of parkland dedication fees. The Applicant shall pay applicable School Land Dedication fees as determined by the School District. The Applicant shall also pay all applicable building permit fees as calculated by the Town Building Official prior to building permit issuance.

**Insubstantial Amendments:**

25. Insubstantial changes to this approval may be approved by the Town Planner.

**Approval Documents:**

26. The Applicant shall submit a final site plan and a public improvement agreement to the Town Planner for review, execution and recordation prior to receipt building permit issuance. The site plan and associated documents shall be executed and recorded within 180 days of the effective date of this ordinance and prior to building permit issuance. The Town Planner may extend the recording deadline. If the site plan and associated documents are not executed and recorded within 180 days or as the deadline is extended, the approval shall be null and void.
27. The Applicant shall submit a Public Improvement Agreement (PIA) and provide financial security for any public improvement to be installed within 180 days of approval. In conjunction with filing the documents listed above, the Applicant shall post financial security for public improvements in an amount and form acceptable to the Town Planner and Town Attorney.

**Vested Rights and Other Legal:**

28. This approval is contingent upon the P&Z rescinding the 2017 P&Z Master Plan Amendment which changed the 2007 Future Land Use Designation of "Industrial" to "High Density Residential" and the

Typology Map from "Work/Mixed Use" to "Neighborhood Multi-Family Residential" in the P&Z's Master Plan (not the Town Council Master Plan). The P&Z has directed Staff to return to the P&Z with a resolution to rescind the said 2017 Master Plan Amendment. Thus, this approval ordinance shall not become effective until the later of 14 days after final publication of the ordinance or approval of such resolution by P&Z.

Note: Provided that the effective date was the later of fourteen (14) days after final publication or approval of the P&Z Resolution rescinding its 2017 Master Plan amendment, the P&Z approved such Resolution at its regular meeting on February 19, 2019, so the effective date is March 7, 2019, fourteen (14) days after publication.

29. Vested rights shall be granted for three years from the effective date of the approval ordinance. If the Applicant does not obtain a building permit within three years of the effective date of the ordinance, approval shall be null and void.

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 Pitkin 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 February 12, 2019 by a vote of 5 to 0 on January 22, 2019.

READ ON SECOND READING AND ADOPTED, by a vote of 5 to 0, with two members abstaining, on February 12, 2019.

TOWN OF BASALT, COLORADO

By:

  
\_\_\_\_\_  
Jacquie R. Whitsitt, Mayor

ATTEST:

  
\_\_\_\_\_  
Pamela K. Schilling, Town Clerk



First Publication: Thursday, January 31, 2019  
Final Publication: Thursday, February 21, 2019  
Effective Date: Thursday, March 7, 2019