

**Town of Basalt, Colorado
Ordinance No. 15
Series of 2017**

ORDINANCE OF THE TOWN COUNCIL OF BASALT, COLORADO, GRANTING SPECIAL REVIEW APPROVAL FOR MAJOR UTILITY FACILITIES AND SITE PLAN REVIEW APPROVAL TO INSTALL A TELECOMMUNICATIONS MONOPOLE AND ASSOCIATED EQUIPMENT ON LOT 14 OF THE BASALT INDUSTRIAL PARK (155 PARK AVENUE), BASALT, COLORADO

RECITALS

- A. Pinnacle Consulting on behalf of Basalt Management, Inc. ("Applicant") filed an Application ("Application") for Special Review approval for major utility facilities and a site plan review to install a 70-foot tall telecommunications monopole disguised as a faux tree at 155 Park Avenue, Lot 14 of the Basalt Industrial Park.
- B. The subject property is zoned IN (Industrial) PUD.
- C. At the public hearing held on June 6, 2017, the Town Planning and Zoning Commission heard evidence and testimony by Town Staff, the Applicant, and members of the public and recommended approval of the Application, subject to conditions.
- D. At a public hearing held on June 27, 2017, the Town Council considered the Application on first reading and set a public hearing and second reading for this ordinance for July 11, 2017 at a meeting beginning no earlier than 6:00 p.m. at Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.
- E. At a public hearing and second reading on July 11, 2017, the Town Council heard evidence and testimony by Town Staff, the Applicant, and members of the public.
- F. The Town Council finds that the Applicant's request is consistent with the applicable provisions of the Town Code and Town Master Plan, provided the Applicant adheres to the conditions identified in this Ordinance.

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

A. FINDINGS

1. Based on the evidence, testimony, exhibits, and comments from the public, the Applicant and Town Staff, the Town Council finds and determines in accordance with the Town Code, as follows:

a. The Town Council incorporates the above recitals, the representations of the Applicant, and all exhibits as findings and determinations, and conclusively makes all of the findings of fact, determinations and conditions contained herein.

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

c. The Town Council finds that the Applicant's request to except the Major Utility Facility from the maximum height requirement in the Industrial Zone District satisfies the requirements of Town Code Section 16-182, *Maximum Height Requirement Exceptions*.

B. CONDITIONS

Based on the Application, testimony and comments from the public, Applicant and Town Staff, the Town Council hereby approves of a Special Review and Site Plan Review for a 70-foot tall telecommunications monopole disguised as a faux tree and associated equipment at 155 Park 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 and Town Council.

Equipment Shelter:

3. The Applicant shall construct the equipment structure and fence to be consistent with the elevation drawings and site plan prepared by Technology Associates dated 11/15/16.

Monopole:

4. The height of the monopole shall be as indicated on the elevation drawings and site plan prepared by Technology Associates dated 11/15/16.

Public Health:

5. It is a specific condition of this approval that the telecommunication facilities remain within the radio frequency radiation levels required by the FCC. Within three (3) months after the construction of the telecommunication facilities, the maximum radio frequency radiation shall be measured and documented in a written report and submitted to the Town. The measurement and report shall be performed and prepared by a qualified, independent testing service/consultant retained by the Town at the Applicant's expense.

The maximum radio frequency radiation shall not exceed the most current FCC standards. The Applicant shall have the site tested on a yearly basis, starting one year after construction and submit a written affidavit indicating that the facilities still comply with the most current FCC standards. In the event that the testing demonstrates higher radio frequency radiation than is allowed by the FCC Standards, the Town Planner will schedule a public hearing before the Town Council to consider requiring removal of the facilities. Written notice of the hearing will be provided to the property owner and the lease holder of the telecommunication facility at least fifteen (15) days prior to the hearing date.

Maintenance:

6. It is a specific condition of this approval that the telecommunications facility be maintained in an acceptable manner and the Town may require the Applicant to remove it if it is not maintained. The Applicant shall conduct routine maintenance on the faux tree materials and as required by the Town Planner pursuant to written notice of disrepair by the Town Planner. In the event that it is determined by the Town Planner that the faux tree materials are in disrepair and the Applicant does not repair them to the satisfaction of the Town Planner within 30 days of receiving written notice, the Town Planner may call the Applicant in front of the Town Council to consider removing the telecommunication facilities. In this scenario, the Town Council's review will be in a noticed public hearing in which written notice of the hearing is provided to the property owner and the lease holder of the telecommunication facility at least fifteen (15) days prior to the hearing date.

Fire District Comments:

7. The Applicant shall demonstrate compliance with the Deputy Fire Marshal, Brooke Stott's comments dated 5/9/17 prior to commencing operations.

Construction Management Plan and Tree Protection:

8. The Applicant shall submit a construction management plan for review and approval by the Town Planner prior to commencing construction activities on the site. The Applicant shall also install tree protection fencing to preserve the trees on the site. Upon installing the tree protection fencing, the Applicant shall contact the Assistant Planning Director to inspect and approve the fencing prior to commencing construction activities.

Co-Location of Telecommunication Facilities:

9. The Town supports co-location of telecommunication facilities and requires that the Applicant agree to allowing co-location of telecommunication facilities from other carriers on the site in the future subject to negotiation of comparable terms between a new service provider and the property owner. New antennas and any additional support facilities shall require approval from the Technical Review Committee (TRC) by demonstrating that the additional facilities will not have an additional visual impact and that the other conditions of this ordinance are satisfied. The Town Planner may elevate the review of additional facilities on this site to the Planning and Zoning Commission at a duly noticed public hearing.

Approval Documents:

10. 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.
11. The Applicant shall prepare a site plan for review and approval by the Town Planner and Town Attorney prior to execution and recording at the Eagle County Clerk and Recorder's Office. The site plan shall be recorded prior to the issuance of a building permit.

Vested Rights:

12. 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 or development permit for the monopole 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:

13. 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 contained herein and the conditions contained herein shall be binding on and inure to the benefit of the heirs, successors and assigns of the Applicant.
2. The Ordinance 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 the 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 11, 2017 by a vote of 5 to 0 on June 27, 2017.

READ ON SECOND READING AND ADOPTED by a vote of 5 to 0 on July 11, 2017.

TOWN OF BASALT, COLORADO

By: 
Jacquie R. Whitsitt, Mayor

ATTEST:

By: 
Pamela K. Schilling, Town Clerk

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Effective Date: Thursday, August 3, 2017

