

**Town of Basalt, Colorado  
Ordinance No. 18  
Series of 2020**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,  
COLORADO, REINSTATING AND AMENDING APPROVALS GRANTED BY  
ORDINANCE NO. 6, SERIES OF 2018, GRANTING SPECIAL REVIEW AND  
SITE PLAN REVIEW APPROVALS FOR THE DEVELOPMENT OF  
RESIDENTIAL DWELLING UNITS AND ADDITIONAL INDUSTRIAL FLOOR  
AREA IN THE INDUSTRIAL ZONE DISTRICT AT 11 DUROUX LANE,  
BASALT, COLORADO (CUNNINGHAM APPLICATION)**

**RECITALS**

A. The Town of Basalt (“Town”), acting by and through its Town Council (“Town Council”), has the power to grant Special Review and Site Plan approvals. Red Cunningham (“Applicant”) applied to the Town in July 2020, requesting a reinstatement and amendment to the approvals granted by way of Ordinance No. 6, Series of 2018. The 2018 ordinance granted Special Review and Site Plan Review approvals to allow for the addition of three (3) residential dwelling units and 275 square feet of storage space to an existing structure located at 11 Duroux Lane, Basalt, Colorado, and more specifically described as Lot 4 of the Basalt Industrial Park.

B. The Planning and Zoning Commission considered the application at a public hearing held on September 1, 2020. Throughout the meeting, evidence and testimony was offered by the Applicant and Staff. The Planning and Zoning Commission recommended that Town Council approve the proposed application with conditions by a vote of 5 to 1.

C. At a public hearing held on September 22, 2020, 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 September 22, 2020, the Town Council considered this Ordinance on first reading and continued and set a public hearing and second reading for this Ordinance for October 13, 2020 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 October 13, 2020, 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. 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), 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.
3. Based on information provided by the Applicants, upon compliance with the condition contained herein, there is adequate water supply to accommodate the development pursuant to C.R.S. 29-20-303.

B. **APPROVAL AND CONDITIONS.**

Site Plan and Special Review approvals to permit three (3) total residential units above the industrial building and the expansion of 275 square feet of commercial storage space at 11 Duroux Lane 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.

**Dimensional Requirements:**

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

Dimensional Requirement	
Building Height	30'
Ridge Height	32'
# of Stories	2
FAR	.05:1
Parking	11 spaces
Max. Unit Size	1,037 sq. ft.

**Architectural Consistency:**

4. The architecture shall remain consistent with what was approved by Council in Ordinance No. 6, Series of 2018. The Applicant shall provide material samples to the Town Planner for approval prior to building permit to ensure the quality of materials intended in the original design is maintained.

**Lease Restrictions:**

5. 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.

Notwithstanding, if the Town amends the Industrial (IN) Zone District to allow children to occupy residential units in the IN Zone District, then the Applicant may seek administrative approval to allow children to occupy the subject residential units through TRC approval and payment of applicable School Land Dedication and Childcare fees.

**Industrial Space Uses:**

6. The Applicant shall include language in each of the rental leases disclosing to all the pre-existence of industrial and light industrial uses adjacent to the site and that associated impacts include, but are not limited to, noise, and further acknowledging the likely continuation of said industrial and light industrial land uses.

The residential use is compatible with the current commercial/industrial use on the site. In the instance the commercial/industrial use changes,

the new use shall be subject to review by the Town's Technical Review Committee (TRC) to ensure compatibility with the residential use.

**Transportation:**

7. Project Transportation Fee: The Applicant shall pay the Willits Lane Impact fee of \$1,000 per unit, and \$.50 per sq. ft. of commercial storage. The Applicant shall pay the fees at the time of building permit issuance for each of the individual units, as well as the construction of the commercial storage space.

**Car/Bike Share Fee:**

8. 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, like WE-Cycle, at the discretion of the Town Council.

**Construction Management Plan:**

9. The Applicant shall submit construction management plan in conjunction with the building permit 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. Any construction trailer shall not house workers overnight.

**Mid-Valley Metro District:**

10. The Applicant shall complete a tap application and pay tap fees for each unit at the time of building permit issuance. The Applicant shall submit plumbing and civil drawings showing the connections to the District's water and sewer system and demonstrate compliance with Chris Lehrman's comments from SGM for the Mid-Valley Metro District, dated 2/13/2018, found in Exhibit C, prior to building permit, to the satisfaction of the Town Planner.

The Applicant shall verify the size of the service line to the property and work with Mid-Valley Metro District to ensure the service line is adequately sized to service the three residential units prior to building permit.

**Duroux Park Water Service Agreement:**

11. The Applicant has entered an agreement acceptable to the Town that allows Town of Basalt Public Works Staff to access the site and use the

Applicant's hose bib to water the vegetation in Duroux Park, as needed, at no cost. The executed Water Service Agreement has been recorded with the Eagle County Clerk and Recorded at Reception No. 201819195.

#### **Development and Building Fees:**

12. 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 and improvement fees. Staff shall allow a modest reduction of the parkland dedication and improvement fees at the discretion of the Town Planner for use of the water for Duroux Park. The Applicant shall also pay all applicable building permit fees as calculated by the Town Building Official prior to building permit issuance.

As no children will reside in the units, the Applicant shall be released from payment of the school land dedication fee. Likewise, the application shall not be assessed a childcare fee for the new development.

#### **Affordable Housing Mitigation:**

13. The Applicant is proposing a mixed-use development with three residential dwelling units not exceeding 1,400 total square feet each, and therefore meets the Code's requirements for an exemption from providing inclusionary housing for the residential units.

Staff agrees that no new employees will be generated from the proposed 275 sq. ft. increase from commercial storage on the site and is therefore requiring no affordable housing mitigation for this minor commercial space addition. The TRC will provide a Record of Action related to this determination after the Town Council's Review.

#### **Parking:**

14. Parking and driveway materials are as follows:
  - a) Industrial Parking. If asphalt or concrete paved, the five (5) parking spaces and driveway at the front of the site shall be delineated by striping. If the parking spaces and driveway are surfaced with polypave on a gravel surface, or another method of dustless or environmentally sensitive surface found acceptable by the Town Planner, the parking spaces shall be delineated by wheel stops.
  - b) Residential Parking. The six (6) residential parking spaces adjacent to Duroux Lane shall be delineated by striping and wheel stops and

will include signage assigning use by each specific residential unit. If the parking spaces and driveway are surfaced with polypave on a gravel surface, or another method of dustless or environmentally sensitive surface found acceptable by the Town Planner, the parking spaces shall be delineated by wheel stops.

The Applicant shall indicate to Staff the intended parking and driveway surface treatment prior to executing and recording a final site plan. Future changes to the surface of the parking spaces and driveway shall require approval by the Town Planner.

15. Parking shall not be used for storage of non-operating vehicles.

**Signage:**

16. A parking signage plan shall be reviewed and approved by the Town Planner prior to the issuance of a building permit.

Any future changes to signage for the property shall be reviewed and approved by the Town Planner.

**Fencing and Pedestrian Pathway:**

17. Any fencing that is added or changed shall be replaced with fencing that is composed of non-combustible materials. Chain link fencing is prohibited along Willits Lane. All new or replacement fencing must comply with the height and other limitations of the Industrial Zone District. Fencing must comply with the Town's Firewise Mitigation construction requirements.

18. As part of the pedestrian pathway, a gate will be included within the property's fence to allow ingress/egress of residential tenants and guests to access the Willits Trail. The gate will be installed in a location approved by the Town Planner prior to building permit.

19. The Applicant shall submit a plan for the barrier between the pedestrian pathway and the industrial yard, including material, location and height of the barrier, as well as the material of the pathway, to be reviewed and approved by the Town Planner prior to building permit.

**Outdoor Lighting:**

20. Any outdoor lighting shall comply with the requirements found in Section 16-437 of the Code and shall be submitted with the final site plan for review and approval by the Town Planner.

**Site Plan:**

21. The Applicant shall submit an amended site plan to include a four-foot wide pathway extending from the rear of the site through a gate in the fence.

The Applicant shall submit a final site plan for review and approval. The site plan shall be executed and recorded within 180 days of final approval and prior to building permit issuance. The Applicant shall record the site plan and associated approval documents within 180 days of approval or receive an extension from the Town Planner or the approval is null and void. The Applicant shall also submit an SIA and provide financial security for any public improvement to be installed within 180 days of approval.

**Building Regulations:**

22. 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. All building materials shall meet the requirements of the Town's Firewise Mitigation code.

**Insubstantial Amendments:**

23. 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:**

24. The Applicant shall demonstrate compliance prior to building permit issuance with the following referral requirements, to the satisfaction of the Town Planner, as found Town Staff's memo to the Basalt Planning and Zoning Commission, dated September 1, 2020.

- a) Referral comments by Jim Wilson of the Town of Basalt Building Department, dated March 7, 2018; and
- b) Referral comments by Brooke Stott of the Basalt and Rural Fire Protection District, dated February 12, 2018 and July 21, 2020; and
- c) Referral comments by Chris Lehrman of SGM for the Mid-Valley Metro District, dated February 13, 2018 and August 14, 2020.

**Ownership:**

25. The residential units shall be maintained as rental units and shall not be condominiumized into separate ownership interests.

**Snow Storage Plan:**

26. The Applicant shall submit a snow storage plan for review and approval by the Town Planner prior to issuance of building permit. The Applicant shall be responsible for the removal of snow from the residential parking spaces. No snow may be pushed or stored within the Town's right-of-way.

**Vested Rights:**

27. 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, the approval is null and void. The Applicant may request an extension of vested rights pursuant to the process for extending vested rights in the Town Code.

READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON October 13, 2020, by a vote of 7 to 0 on September 22, 2020.

READ ON SECOND READING AND ADOPTED, by a vote of 7 to 0 on October 13, 2020.

TOWN OF BASALT, COLORADO

By:   
William G. Kane, Mayor

ATTEST:

  
Pamela K. Schilling, Town Clerk

First Publication: October 1, 2020  
Final Publication: October 22, 2020  
Effective Date: November 5, 2020