

**Town of Basalt, Colorado
Ordinance No. 4
Series of 2007**

ORDINANCE OF THE TOWN COUNCIL OF BASALT, COLORADO, RESCINDING THE SPECIAL REVIEW APPROVAL FOR A BED AND BREAKFAST GRANTED BY RESOLUTION NO. 6, SERIES OF 1997, AND APPROVING A SITE PLAN REVIEW FOR A DENTIST OFFICE AND RESIDENTIAL UNIT IN CONJUNCTION WITH A BUSINESS, AND A MIXED USE PARKING REDUCTION FOR PROPERTY OWNED BY HERSCHEL ROSS, LOCATED AT 234 MIDLAND AVENUE (ROSS APPLICATION)

RECITALS

- A. Herschel Ross (“Applicant”) filed an Application (“Application”) to rescind the special review approval for a bed and breakfast granted by Resolution No. 6, Series of 1997, for the property at 234 Midland Avenue. The Application also requests Site Plan approval for a dentist office and residential unit in conjunction with a business, and a mixed use parking reduction on the property located at 234 Midland Avenue within the municipal limits of the Town of Basalt and more particularly described in a warranty deed recorded as Reception No. 200630714 with the Eagle County Clerk and Records Office (“Property”).
- B. The Planning and Zoning Commission considered the application at a public meeting on February 20, 2007 and voted to recommend approval of the application, subject to conditions. Throughout the hearing, evidence and testimony was offered by the Applicant, staff and members of the public.
- C. At a public meeting held on February 27, 2007, the Town Council considered the Application on first reading and set a public hearing and second reading for this ordinance for March 13, 2007 at a meeting beginning no earlier than 6:00 p.m. at Basalt Town Hall, 101 Midland Ave., Basalt, Colorado.
- D. At a public hearing and second reading on March 13, 2007, the Town Council heard evidence and testimony by Town Staff and members of the public.
- E. 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 Sections 16-47(2), 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 Application satisfies the requirements of Section 16-47(2), Town Code relating to terminating the special review approval. Resolution No. 6, Series of 1997 granted special review approval for a bed and breakfast at 234 Midland Avenue. The Applicant has petitioned the Town Council to rescind the special review approval to allow the lot to be utilized in accordance with the C-2 Zoning in place on the Property including a dentist office and residential unit in conjunction with a business. The proposed change in use is consistent with the Town Code, provided the Applicant adheres to the conditions contained herein. The proposed change in use is generally compatible with the natural characteristics and constraints of the Property.

2. 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(e), 16-111(c)(1-4), 16-113, 16-92, and 16-72, Town Code, as follows:

a. The Application satisfies the requirements of Section 16-44(e), Town Code, 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; there is no 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; provided the Applicant adheres to the conditions contained herein.

b. The Application complies with Section 16-111(c)(1-4), Town Code, because the proposal is architecturally consistent with the architecture of the surrounding buildings; the proposed structure and proposed use will not substantially adversely affect traffic flows or traffic patterns; an adequate landscaping plan for the project is provided; and the proposed use and proposed buildings do not have the potential to cause adverse environmental impacts, provided the Applicant adheres to the conditions herein.

c. The Application is consistent with the standards of review found in Section 16-113, Town Code, because no lights or signs shall be located on the Property in a manner that will distract adjoining properties or passing motorists; landscaping will be provided in areas near the public right of way; storm drainage will not affect adjoining properties; the site design and building plans include any provisions required by the Town Building Code for provision for the needs of handicapped individuals; and the project is not anticipated to generate dust, odor, gas, fumes, smoke or ash, and shall conform with the lighting code to limit glare.

d. The Application is consistent with the standards of review found in Section 16-92, because the Applicant has provided a recommendation regarding mixed use parking from a consultant acceptable to the Town, and the parking reduction permitted will not exceed 25%, subject to compliance with the conditions contained herein.

e. The Application is consistent with the standards of review found in Section 16-72, because the Application is consistent with the Town Master 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; subject to compliance with the conditions contained herein.

B. CONDITIONS

1. Based on the Application, testimony and comments from the public, Applicant and Town Staff, the Town Council hereby grants approval for rescinding the special review approval granting a bed and breakfast, and approving a site plan review for a dentist office and residential unit in conjunction with a business, and a mixed use parking reduction, as represented in the Application, subject to the following conditions:

a. The Applicant shall comply with all material representations made by the Applicant in the Application and in hearings before the Town Council.

b. The provisions of Resolution No. 6, Series of 1997, granting the special review approval for a bed and breakfast are hereby rescinded. The permission for a bed and breakfast approved by said resolution is hereby terminated and the conditions related to the special review approval shall no longer be in effect.

c. The residential unit in conjunction with a business shall be subject to the condition that the residential unit shall be occupied by an employee or the owner of the business. The Applicant agrees to provide the Town with all information reasonably necessary for the Town to determine compliance with this condition.

d. The off-street parking requirement for the proposed uses is 7.8 spaces. A mixed use parking reduction of 25%, to 5.85 spaces is approved subject to the following conditions:

- (i) Compliance with Condition B.1.c. requiring that the residential unit be occupied by an employee or the owner of the business.
- (ii) The maximum number of employees shall be 4 full time equivalent employees.
- (iii) There shall be no increase in office area, with the storage and break room areas limited to their designated uses.
- (iv) The mixed use parking reduction shall be specific to the proposed use and any change in use shall require review and approval in accordance with the Town Code.

e. The Applicant shall create 3 non-stacked off-street parking spaces at the rear of the lot in the garage, adjacent to the garage or in a parallel configuration along the driveway aisle at the back of the building. The Applicant shall pay fees in lieu of off-street parking for 2.85 spaces with credit given for \$4,000 in fees in lieu of parking already paid for the Property. The Applicant shall pay the fees at the current rate in effect at the time of building permit issuance.

f. The Applicant may apply to the Town for credit against the payment of fees in lieu of parking for providing a bus pass program for employees at no cost or for providing a bike rack and the appropriate public easements along the sidewalk at the front of the Property for the placement of said bike rack. The

Applicant's requests shall be submitted to the Town's Technical Review Committee (TRC) for review and approval as part of the building permit review process. The amount of credit against the fees shall be established by the TRC along with a means for implementing the options including submittal of cost estimates, receipts, and an annual report on bus pass activity (e.g. the number of bus passes provided).

g. Off-street parking located within the front yard, shall not be permitted, based on inconsistency with the Master Plan and significant impacts on the streetscape and pedestrian circulation.

h. Removal of portions of the structure (e.g. screened in porch) at the rear of the building shall be permitted as necessary to create the required 3 non-stacked off-street parking spaces.

i. The Applicant shall remain in compliance with lighting and sign regulations with said compliance verified as part of the building permit review process.

j. Some setbacks for the existing structures are nonconforming (garage and west side yard setback). No changes to the structures that would increase the degree of nonconformance shall be permitted. Compliance with this condition shall be reviewed as part of the building permit review process.

k. In accordance with referral comments from the Basalt Chief Building Official and the Basalt and Rural Fire District Fire Marshall, the remodeled building shall comply with building code requirements for building separation along the west property line. Code compliant exiting for the upstairs apartment shall be required. A hard wired connection between the commercial and residential portions of the building for the smoke alarm systems in the building shall be required. Compliance with this condition shall be reviewed as part of the building permit review process.

l. Recalculation and payment of any additional tap fees to the Town of Basalt for water and the Basalt Sanitation District for sewer shall be required. The Applicant shall comply with any other requirements of the Basalt Sanitation District.

m. The Applicant shall be required to pay all applicable fees to the Town of Basalt and the Basalt Sanitation District. The dentist office shall pay \$0.50 per square foot fee for affordable housing.

C. MISCELLANEOUS

1. The approvals contained herein and the conditions contained herein shall be binding on and insure to the benefit of the heirs, successors and assigns of the Applicant.
2. The Ordinance, after fully being executed and after appropriate publication, 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 March 13, 2007 by a vote of 6 to 0 on February 27, 2007.

READ ON SECOND READING AND ADOPTED by a vote of 7 to 0 March 13, 2007

TOWN OF BASALT, COLORADO

By: _____
Leroy Duroux, Mayor

ATTEST:

By: _____
Pamela K. Schilling, Town Clerk

Ord04-RossRescind&SitePlanReview.doc
Bill to: 10-24-176

First Publication: Thursday, March 8, 2007
Final Publication: Thursday, March 22, 2007
Effective Date: Thursday, April 5, 2007