

**Town of Basalt, Colorado
Ordinance No. 28
Series of 2011**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,
COLORADO, GRANTING A PUD AMENDMENT TO THE MID_VALLEY
BUSINESS CENTER PUD, SITE PLAN REVIEW, AND SPECIAL REVIEW
FOR THE OPERATION OF AN ALCOHOL DISTILLERY AND A CLERESTORY
ADDITION AT 60 SUNSET DRIVE, BASALT, COLORADO**

RECITALS

A. The Town of Basalt ("Town"), acting by and through its Town Council ("Town Council"), has the power to grant PUD amendments, Site Plan Review, and Special Review approvals. Martin Michael LLC. ("Applicant") on behalf of McMahon Properties LLC. applied to the Town in September of 2011, requesting approval of a PUD Amendment, Site Plan Review, and Special Review to operate an alcohol distillery and construct a clerestory addition to the Property at 60 Sunset Drive, Basalt, Colorado, as more specifically described in **Exhibit A** attached hereto.

B. The Planning and Zoning Commission considered the application at a public hearing held on November 1, 2011. Throughout the meeting, evidence and testimony was offered by the Applicant, Staff and members of the public. The Planning and Zoning Commission recommended that Town Council approve the proposed application with conditions.

C. At a public meeting held on November 22, 2011, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicant, and members of the public. At the public meeting held on November 22, 2011, the Town Council considered this Ordinance on first reading and scheduled a public hearing and second reading for this Ordinance for December 13, 2011, for a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

D. At a continued public hearing and second reading on December 13, 2011, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicant, and members of the public and the Town Council approved of this ordinance.

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. 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, and 16-72, Town Code, as follows:
 - a. 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.
 - b. The Application satisfies the requirements of Section 16-44(e), 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; 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.
 - c. The Application complies with Section 16-111(c)(1-4), Town Code, provided the Applicant adheres to the conditions herein, 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.

- d. The Application is consistent with the standards of review found in Section 16-113, Town Code, provided the Applicant adheres to the conditions herein, 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.
- e. The Application is consistent with the standards of review found in Section 16-72, provided the Applicant adheres to the conditions herein, 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.

B. CONDITIONS.

1. A PUD Amendment, Site Plan Review, and Special Review to operate an alcohol distillery and to construct a clerestory addition on the Property at 60 Sunset Drive 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.

PUD Amendment:

3. The following language shall be added to the table of uses in the Mid-Valley Design Center PUD under the category of "Manufacture, compounding, processing, packaging and treatment of the following products"

"Beverages, including those containing alcohol."

“Fermentation necessary for the production of alcohol spirits within a liquor distillery is permitted, provided that the liquor distillery obtains Special Review approval from the Town pursuant to process established in the Town of Basalt Code.”

Clerestory Addition:

4. The Applicant shall use non-reflective glass in the clerestory addition that shall require review and approval by the Town Planner prior to the issuance of a building permit. The Applicant shall also submit a detailed plan as part of the building permit application for the proposed overhang above the compilation of windows in the clerestory addition to demonstrate that the overhang will prevent interior light from filtering upward. The proposed overhang shall require review and approval by the Town Planner prior to the issuance of a building permit.

The Applicant shall also submit an internal lighting plan for the clerestory addition at the time of building permit submittal for review by the Town Planner to ensure that the point-light sources are not visible through the clerestory.

Liquor License:

5. The Applicant shall obtain all necessary state and local liquor licenses prior to commencing operations.

Lighting and Signage:

6. The Applicant shall submit a detailed exterior lighting plan as part of the building permit submittal and prior to commencing operations on the site. The lighting plan shall require review and approval by the Town Planner for compliance with the Town’s lighting code and the Applicant’s representations that all new exterior lighting shall consist of fully cut-off fixtures.
7. The Applicant shall submit a detailed sign plan and sign permit as part of the building permit submittal and prior to commencing operations on the site. The sign plan shall require review by the Town Planner for compliance with the Town’s sign code.

Mid-Valley Metro Conditions:

8. The Applicant shall not dispose of any by-product that is more than 10% solid by volume or that has a biological oxygen demand of more

than 100 in the sanitary sewer. Instead, any by-product that is more than 10% solid by volume or that has a biological oxygen demand of greater than 100 shall be disposed of manually as livestock feed or fertilizer as represented in the Application.

9. Unusable batches of distilled concentrated alcoholic product shall not be entered into the sanitary sewer system. The Applicant shall provide a plan for disposing of unusable batches of alcoholic product prior to building permit submittal for review and approval by the Town Planner and the Mid-Valley Metro District.
10. The Mid-Valley Metro District may review the building permit plans and they will audit the fixtures in the building to allow the District to determine whether additional tap fees are required due to increased water usage. The Applicant shall pay tap fees as calculated by the Mid-Valley Metro District for any increase in water usage.

Fire District Conditions:

11. The Applicant shall upgrade the Fire Sprinkler System and the Fire Alarm System to meet the Fire District's requirements. The Applicant shall also comply with the fire separation requirements of the building code.
12. The Applicant shall use low pressure distillation equipment that does not exceed 15 PSI.
13. The Applicant shall consult with a mechanical engineer and provide a ventilation plan that complies with the mechanical code as part of the building permit application. The Town's Building Official shall review the ventilation plan for compliance.

Solar Panels:

14. Installation of solar generating equipment on the roof shall require review and approval of the location of such equipment by the Town Planner prior to installation to ensure that the equipment is in compliance with the criteria for renewable energy devices set forth in Town Code Section 16-182, *Maximum Height Requirement Exceptions*. The Fire District shall also review the solar panel plan prior to installation to ensure adequate roof access is maintained.

Odor Mitigation:

15. As represented in the Application, odor generated from the facility shall not be transmitted off the property. After commencing operations, if it is determined at the sole discretion of the Town that odor is being generated by the facility that can be detected outside of the property boundaries, then the Applicant shall submit and implement an odor mitigation plan for review, and approval by the Town within 30 days of being provided notice by the Town that an odor mitigation plan is needed.

Special Review Site Plan Recordation:

16. The Applicant shall submit a final special review site plan satisfying the requirements of Town Code Section 16-43, *Site plan and supporting documents*, for execution and recording at the Eagle County Clerk and Recorder's Office prior to issuance of a building permit and within 180 days of the effective date of the final ordinance of approval. The TRC may approve extensions to the recording deadline if the Applicant demonstrates to the satisfaction of the TRC that progress is being made towards finalizing the approval documents. The special review site plan shall require review and approval by the Town Planner and Town Attorney prior to recording.

Minor Architectural Changes:

17. The Applicant is permitted to make minor architectural changes to the building upon approval by the Town Planner as long as such architectural changes do not increase the amount of window glazing or window height on the clerestory addition and are in general conformance with elevation drawings presented at the December 13, 2011 Town Council meeting.

Vested Rights:

18. Vested property rights shall be granted for a period of three (3) years from the effective date of the ordinance approving the Final Development Plan. The Applicant may request an extension of vested rights pursuant to the process for extending vested rights as established in the Town Code.

Minor Amendments:

19. The TRC may review and approve of minor amendments to the approval to effectuate the intent of the final development approvals.

The Applicant shall have the ability to appeal a TRC decision on a minor amendment to the Town Council at a public meeting in which (15) days written notice of the public meeting has been provided to the appellants.

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 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 December 13, 2011 by a vote of 6 to 0 on November 22, 2011.

READ ON SECOND READING AND ADOPTED, by a vote of 5 to 0 on December 13, 2011.

TOWN OF BASALT, COLORADO

By: _____
Leroy Duroux, Mayor

ATTEST:

Pamela K. Schilling, Town Clerk

Ord28-Distillery.doc

Bill to: 24-226

First Publication: Thursday, December 1, 2011
Final Publication: Thursday, December 22, 2011
Effective Date: Thursday, January 5, 2012

Exhibit A to Ordinance No. 28, Series of 2011

Legal Description

Lot 1, Amended Plat of Lots 3A and 4D, Mid-Valley Business Center, (Re-subdivision of Lots 3 and 4) Recorded at Reception No. 476386 in the Eagle County Clerk and Recorder's Office.