

**Town of Basalt, Colorado
Ordinance No. 30
Series of 2011**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,
COLORADO, GRANTING SPECIAL REVIEW FOR THE EXPANSION OF THE
AVALANCHE CHEESE COMPANY'S FOOD PROCESSING AND PACKAGING
OPERATIONS AT 218 CODY LANE, BASALT, COLORADO**

RECITALS

A. The Town of Basalt ("Town"), acting by and through its Town Council ("Town Council"), has the power to grant Special Review approvals. Theodore K. Guy Associates on behalf of Avalanche Cheese Company LLC. applied to the Town in September of 2011, requesting approval of Special Review to remove the restaurant component of their business and replace it with expanded goat cheese processing and packaging operations at 218 Cody Lane, 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 15, 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 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, 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.

B. CONDITIONS.

A Special Review to expand the Avalanche Cheese Company's goat cheese processing and packaging operations into the restaurant space being vacated on the Property at 218 Cody 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.

Odor Mitigation:

3. As represented in the Application, odor generated from the facility shall not be transmitted off the property. After removing the restaurant and altering the goat cheese processing 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:

4. 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 Pitkin 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.

Sanitation District Conditions:

5. The Applicant shall continue to comply with the Basalt Sanitation District's requirements related to disposal of waste from the goat cheese production process.

Signage and Lighting:

6. Any signage shall be in compliance with the Town's sign code and shall require review and approval of a sign permit prior to installation. Additionally, any exterior lighting shall comply with the Town's lighting code.

Vested Rights:

7. 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:

8. 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 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 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

Ord30-AvalancheCheeseCompany1stRead.doc

Bill to: 24-240

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

Exhibit A to Ordinance No. 30, Series of 2011

Legal Description

Lot B, of the Basalt Business Center East Subdivision/PUD Recorded at Reception No. 345502 in the Pitkin County Clerk and Recorder's Office.