

**Town of Basalt, Colorado
Ordinance No. 05
Series of 2011**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,
COLORADO, GRANTING FINAL PLAN APPROVAL FOR SUBDIVISION AND
PLANNED UNIT DEVELOPMENT AND OTHER ASSOCIATED LAND USE
ACTIONS, FOR THE PROPERTY KNOWN AS THE FLYING FISH PROPERTY
AND GRANTING FINAL PLAN APPROVAL FOR A SUBDIVISION, ZONING,
AND PLANNED UNIT DEVELOPMENT, INCLUDING ANNEXATION, AND
OTHER ASSOCIATED LAND USE ACTIONS, FOR THE PROPERTY KNOWN
AS THE POKORNY PROPERTY, BASALT, COLORADO**

RECITALS

A. The Town of Basalt (“Town”), acting by and through its Town Council (“Town Council”), has the power to grant final subdivision and Planned Unit Development (PUD) approvals. Flying Fish Holdings LLC. on behalf of Mary Colemon Peer (“Flying Fish Applicants”) applied to the Town in April of 2010, requesting Final Subdivision, Final PUD, Environmentally Sensitive Area (ESA) Review, a River Setback Waiver, Special Review, Rezoning, and Preliminary and Final Condominiumization to construct a mixed use building on the property known as the Flying Fish Property. The Flying Fish Property is more particularly described in **Exhibit A-1**.

B. Alexander Street Holdings LLC. (“Pokorny Applicants”) applied to the Town in April of 2010, requesting Final Subdivision, Final PUD, Annexation, Special Review, Initial Town Zoning, and Preliminary and Final Condominiumization to construct a residential development on the property known as the Pokorny Property. The Pokorny Property is more particularly described in **Exhibit A-2**.

C. The Flying Fish Application proposes the construction of a mixed use building with 1,094 square feet of commercial space, nine (9) residential dwelling units, and a parking garage. The Application also proposed dedication to the Town of approximately 1.09 acres of parkland including river and riverfront trails. Additionally, the Applicants propose the dedication of 220 square feet of property at the corner of Midland Avenue and Riverside Drive to the Town for the potential construction of a roundabout.

D. The Pokorny Application proposes the construction of a residential development consisting of two (2) buildings containing a total of twenty-six (26)

residential dwelling units and first floor parking garages.

E. The Flying Fish and Pokorny Applications are linked in their review because the riverfront park and its associated improvements proposed on the Flying Fish Property are to satisfy the parkland dedication requirements for both the Flying Fish and Pokorny Developments. Similarly, six (6) of the deed restricted units proposed in the Pokorny Application are to be replacement housing units to satisfy the replacement housing requirements of the Flying Fish Development.

F. The Planning and Zoning Commission considered the applications at a public hearing on January 18, 2011. The Planning and Zoning Commission voted to recommend approval, subject to conditions. Throughout the hearing, evidence and testimony was offered by the Applicants, Staff and members of the public.

G. At a public hearing held on March 8, 2011, the Town Council considered this Ordinance on first reading and continued and set a public hearing and second reading for this Ordinance for March 22, 2011, at a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

H. At a public hearing and second reading on March 22, 2011, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicants, and members of the public.

I. 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 Applicants' request is consistent with the applicable provisions of the Town Code, provided the Applicants adhere 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 as follows in accordance with Sections 16-63(d), 16-65(d)(6) and 16-72, Town Code.

a. The PUD Plans, subject to the conditions of approval included herein, are consistent with the Town Master Plan.

b. The PUD Plans, subject to the conditions of approval included herein, conforms with the provisions of Article 16 of the Town Code.

c. The PUD developments, subject to the conditions of approval included herein, will not have adverse environmental impacts, such as excessively increasing traffic hazards or congestion, overloading utilities or otherwise being detrimental to the general welfare of the community.

d. The PUD developments, subject to the conditions of approval included herein, will complement and be integrated with the existing development and with the approved but not yet existing development in the area.

e. The PUD developments, subject to the conditions of approval included herein, will provide community benefits.

f. The variances from the strict requirements of the Town Code and original PUD plan are designed to improve the efficiency of the development pattern, preserve existing natural assets, or encourage the use of open space.

g. The variances from strict compliance with the Code requirements are justified because the PUD Plans as proposed, exceed certain design standards or contains certain exceptional and desirable features that enhance the overall PUD Plan.

h. The PUD Plans as proposed satisfy one or more of the purposes set forth in Section 24-67-102(1), C.R.S.

B. **CONDITIONS.** The Flying Fish Final Plan and associated land use actions are hereby approved subject to the conditions contained in **Exhibit B** attached hereto. The Pokorny Final Plan, Annexation, and associated land use actions are hereby approved subject to the conditions contained in **Exhibit C** attached hereto.

C. MISCELLANEOUS.

1. The approvals and conditions contained herein and attached hereto shall be binding on and inure to the benefit of the heirs, successors and assigns of the Applicants and the owners of the Property.

2. This Ordinance, after fully executed, shall be recorded in both the office of the Clerk and Recorder of Eagle County and Pitkin County as the Flying Fish and Pokorny Properties are located in different counties.

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 March 22, 2011 by a vote of 6 to 0 on March 8, 2011.

READ ON SECOND READING AND ADOPTED, by a vote of 4 to 1 on March 22, 2011.

TOWN OF BASALT, COLORADO

By: _____
Leroy Duroux, Mayor

ATTEST:

Pamela K. Schilling, Town Clerk

Ord05-FlyingFish_PokornyFinalPlan.doc

Bill to: 24--166

First Publication: Thursday, March 17, 2011
Final Publication: Thursday, March 31, 2011
Effective Date: Thursday, April 14, 2011

Exhibit A-1
Flying Fish Property

Property Description

A parcel of land situated in Tracts 47 and 48, Township 8 South, Range 86 West of the 6th Principal Meridian, Town of Basalt, Eagle County, Colorado, lying southeasterly of the Southeasterly right-of-way line of Fryingpan Road as built and in place, lying northeasterly of the Northeasterly right-of-way line of Riverside Drive as built and in place and lying northwesterly of the Southeasterly bank of the Fryingpan River, and being more particularly described as follows:

Beginning at the intersection of the Southeasterly right-of-way line of said Fryingpan Road with the Northeasterly right-of-way line of said Riverside Drive whence a brass cap found in place and properly marked for Angle Point No. 3 of said Tract 47 (also being Angled Point No. 2 of said Tract 48) bears 86°13'42" W 845.93 feet; Thence along the Southeasterly right-of-way line of said Fryingpan Road on the following five (5) courses: N 41° 54'23" E 148.54 feet; thence N 50 ° 10'59" E 251.85 feet; thence N 58° 52' 07" E 64.66 feet; thence N 41°08'48" E 33.44 feet; thence N 57°44'59" E 51.88 feet to a point on the Southerly boundary line of Lot 1, Shenandoah Inn Subdivision in said Town of Basalt; thence N 88° 41' 00" E 18.17 feet along the Southerly boundary line of said Lot 1; thence S 19° 55'01" E 64.82 feet to a point on the Southeasterly bank of said Fryingpan River, also being a point on the boundary of a parcel of land described in Book 244 at Page 376 of the Eagle County, Colorado records; thence along the Southeasterly bank of said Fryingpan River on the following five (5) courses; S 62°12'38" W 71.13 feet; thence S 39° 03'20" W 155.50 feet; thence S23°12'56" W 83.23 feet; thence S 30°29'28" W 65.63 feet; thence S28° 25'00" W 145.57 feet to a point on the Northeasterly right-of-way line of said Riverside Drive; thence along the Northeasterly right-of-way line of said Riverside Drive on the following three (3) courses: N 56°28'08" W 60.39 feet; thence N45°16'10" W 49.49 feet; thence N55°46'30" W 87.50 feet: to the point of beginning, County of Eagle, State of

Colorado, which has the address of 106 Cottonwood Drive, Basalt, Colorado 81621; Said Parcel Containing 1.48 Acres, more or less.

Exhibit A-2
Pokorny Property

Property Description

A PARCEL OF LAND SITUATED IN TRACT NO. 59, OF SECTION 18, TOWNSHIP 8 SOUTH, RANGE 86 WEST OF THE 6TH P.M., SAID PARCEL OF LAND IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHENCE AN IRON POST WITH A BRASS CAP FOUND IN PLACE AND PROPERLY MARKED FOR WITNESS POINT TO ANGLE POINT NO. 2 OF SAID TRACT NO. 59, BEING THE SAME AS ANGLE POINT NO. 6 OF SAID TRACT NO. 45, ANGLE POINT NO. 1 OF TRACT NO. 62, AND ANGLE POINT NO. 4 OF TRACT NO. 46, ALL IN SAID TOWNSHIP AND RANGE BEARS S 59 °22'40" E 254.68 FEET AND N 38 °22'40" W 1648.78 FEET; THENCE SOUTH 290.40 FEET; THENCE WEST 225.00 FEET; THENCE NORTH 290.40 FEET; THENCE EAST 225.00 FEET TO THE POINT OF BEGINNING.

COUNTY OF PITKIN

Exhibit B
Flying Fish Conditions of Approval

Representations:

1. The Approved Development Program on the Flying Fish Development shall consist of seven (7) free-market dwelling units, two (2) RO dwelling units without annual appreciation caps, and 1,094 square feet of commercial floor area as further defined herein.
2. The Applicants shall comply with all representations set forth in the Application. The Applicants shall also comply with all material representations made in hearings before the Planning and Zoning Commission and Town Council.

General Planning Conditions:

3. Combination of units within the PUD shall not be permitted.
4. The Applicants shall dedicate to the Town with the recording of the Final Plat for the Flying Fish PUD, Tract #1 (comprising of 220 square feet) as shown in the engineering – surveying provided by High Country Engineering and included in the Flying Fish Final PUD Plan submittals ensuring adequate right-of-way for the potential future construction of a roundabout adjacent to the property.
5. Solar Energy shall be required as a major energy source for any snowmelt systems associated with the sidewalk and driveway ramps at the Flying Fish PUD.

Community and Replacement Housing:

6. The Final PUD Development Plan approvals include the following community housing provisions:
 - a. Six (6) of the community housing units in the Pokorny Development Project shall be offered first to the current residents of the Flying Fish Property, at the average between Category 1 and Category 2 sales prices as established in the Town's Community Housing Guidelines at the time of issuance of a CO on the units. Qualified residents to occupy the replacement housing units are further defined in Condition No. 6(h) below.

- b. If the residents of the Flying Fish Property are not able to purchase the six (6) units to be developed in the Pokorny Development Project, then they shall be available for purchase at the average between Category 1 and Category 2 sales prices for:
 - i. Purchase by the Town for Town employees or by a Town/Non-Profit Partnership,
 - ii. Purchase by other government entities, fire, police, and school employees
 - iii. Available to other Basalt residents, on a priority basis (i.e. other replacement housing) as a lottery or other open opportunity as defined in the Town's Community Housing Guidelines.
- c. The two (2) RO units without appreciation caps shall be required to be owner-occupied as defined in the Town's Community Housing Guidelines as may be amended from time to time for units that are not required to address the Town's affordable housing requirements. The Applicants may choose for the RO units to be sold pursuant to the occupancy and qualification requirements in the Community Housing Guidelines on the effective date of this ordinance or at the time the deed restrictions are required to be recorded pursuant to Condition No. 41 of Exhibit B hereto.
- d. The two (2) RO housing units shall be responsible for only a proportionate share (e.g. based on floor area) of Homeowner Association (HOA) dues, with final approval of the Homeowners Association (HOA) and condominium documents by the Town Attorney being required. As a clarification, the RO housing units shall pay for typical maintenance and common area expenses but that any luxury type of items would be paid for by the free market units.
- e. The Applicants shall only list all the units within the development for sale with a local realtor with a primary office within the Roaring Fork Valley.
- f. The development shall satisfy the Town's policy for a minimum 1% Real Estate Transfer Assessment to be used for community benefits. Dwelling units which sell for \$1 Million or more shall have an additional 1% RETA so that the RETA is a total of 2% for those dwelling units.
- g. The two (2) RO units shall be subject to deed restrictions as necessary and approved by the Town Attorney to implement the Town's Community Housing program and the conditions contained herein.

- h. The temporary housing relocation plan proposed by the Applicants in the Final Plan Application shall be amended as follows:
 - i. The Applicants shall give tenants that lived on the Flying Fish site at the time of Final Plan application submittal the first priority in purchasing one of the Pokorny Replacement Housing Units as described in Condition 6(b) above and temporary rental assistance; and,
 - ii. The Flying Fish tenants that were tenants of the Flying Fish at the time of Final Plan application submittal shall be provided a unit to rent by the Applicants in the Greater Basalt Area as defined in the Town's Community Housing Guidelines at the average between the Category 1 and the Category 2 rental rates for a minimum time period equaling the earlier of the issuance of the last of the COs on the Pokorny Replacement Housing Units or the expiration of the vested rights period for the development; and,
 - iii. If the Applicants provide proof at the Town's sole discretion that any one of the tenants in the existing Flying Fish units owe the Applicants back rent due beyond three (3) months at the time of building permit submittal to demolish the existing units on the Flying Fish Property, the Applicants shall not be required to provide temporary rental assistance to said tenants; and,
 - iv. Any of the Pokorny Replacement Housing Units that are not purchased by tenants of the existing Flying Fish units shall be eligible for purchase as described in Condition 6(b) above.

Concurrency between Flying Fish and Pokorny Projects

7. Except for the RO units to be built on the Flying Fish Property, certificates of occupancy for the Community Housing Units required pursuant to the Flying Fish PUD and Pokorny PUD approvals shall be issued prior to or concurrently with certificates of occupancy for any free-market residential units within the Pokorny PUD. Certificates of occupancy for the two (2) RO units required on the Flying Fish Property shall be issued prior to or concurrently with the certificates of occupancy for any free-market residential units on the Flying Fish Property. The cabin on the Flying Fish site can be demolished prior to the issuance of community housing certificates of occupancy.

Parkland Dedication & Open Space:

8. Subject to the provision of the additional amenities noted below, the 1.09 acres of parkland dedication and park improvements as proposed by the Applicants' most recent application shall be acceptable for the dwelling units proposed in the Final Plan application.
9. The Open Space and Landscaping Plan for the Flying Fish PUD is approved subject to the following provisions:
 - a. The TRC shall evaluate the need for a shade shelter at the west end of the trail prior to the issuance of COs on the Flying Fish development. In determining whether a shade shelter should be provided, the TRC may consider, among other things, the amount of shade provided by the existing trees that survive the construction process and its compatibility with the surrounding landscape.
 - b. The specifications for the outdoor furniture to be installed by the Applicants in the dedicated open space shall be as provided in the Final Plan application.
 - c. The TRC shall review and approve of the location of the fishing access prior to the Applicants installing landscaping on the Town's riverfront park.
10. A tree removal permit application shall be submitted for the trees to be removed. The Applicants shall install tree protection fencing around the drip lines of the trees to be protected. The Applicants shall remove all of the mature Cottonwood Trees that were previously topped and provide a mitigation plan for review and approval by the Town Horticulturist that mitigates for the Cottonwood Trees on a one to one ratio. The root masses of the Cottonwood Trees to be removed shall be maintained to preserve bank stability and for erosion control purposes. The topped Cottonwood trees shall not be removed until the final exterior material have been fully installed on the river side of the new Flying Fish structure, but before the issuance of COs on the units in the building.
11. A detailed irrigation plan shall be submitted for review and approval by the Town Horticulturist prior to the issuance of a building permit.

Green Building Concepts & Energy Efficiency:

12. The development shall meet the more restrictive of obtaining a score of at least 88 points on the Aspen/Pitkin County Efficient Building Point System or meeting the Town's Efficient Building Program in affect at the time of building permit submittal as determined by the Town's Building Official.

Site Plan, Design, and Development Program:

13. The approved dimensional requirements for Flying Fish shall be as follows:

Dimensional Requirement	Approved Measurement
Min. Lot Area For Development Parcel	16,101 square feet
Building Height	30 Feet to the top of the flat roof with 2,200 square feet of roof area exceeding the 30 foot height limit by up to 1 foot and 10 inches with the additional provisions for solar panels
# of Stories	2 (not including parking)
Front Yard Setback	Varies as shown on the Flying Fish PUD Development Plan prepared by High Country Engineering dated 2/9/09 with setbacks at the three closest points of Building B to the Frying Pan right-of-way set at 18 ft., 14 ft., and 12 ft. A minimum dimension of 12 ft. shall be available for the sidewalk in front of Building B.
Rear Yard Setback	Varies as shown on the Flying Fish PUD Development Plan prepared by High Country Engineering

	dated 2/9/09
Side Yard Setback	Varies as shown on the Flying Fish PUD Development Plan prepared by High Country Engineering dated 2/9/09
Floor Area	17,572 square feet of total floor area (not including the parking level)
Parking	18 off-street parking spaces for use by the residential units and 4 off-street parking spaces for use by visitors of the residential units and owners and patrons of the commercial spaces

14. Height exceptions up to seven (7) feet above the flat roof shall be permitted for the installation of solar equipment on the roof subject to further evaluation of plans, including the actual proposed height of the installation and confirmation of compliance with the zoning code limitations. In order to minimize visual impacts the solar equipment shall be set back from the top floor façade along the Fryingpan River a minimum of 25 ft. Said allowances shall also be subject to confirmation that the solar equipment is of a non glare type of material and designed/installed in a manner to reduce impacts on adjoining properties and views.
15. Final design of the parking garage shall include convenient and secure bicycle storage areas. The Flying Fish PUD shall include a bicycle rack within the streetscape plaza for public use.
16. Height exceptions for parapet details may be permitted in order to shield mechanical equipment on the roof. Said allowances shall be subject to TRC review and approval at the time of building permit submittal in order to confirm that they meet the intent of the PUD approvals. The parapet walls may be at most three (3) feet above the flat roof.
17. No roof top activities including hot tubs shall be permitted. Roof top activities were removed from the Preliminary Plan submittals as was included in the Preliminary Plan Resolution. Roof top mechanical equipment shall be shielded by parapet details and set back from the top

floor façade along the Frying Pan River a minimum of 25 ft. The overall roof color shall also be selected to minimize visual impacts and glare.

18. The walkway separation between Building Component A and Building Component B as reflected in the Applicant's floor plans submitted in the Final Plan Application, ranging from 18 ft. at the street façade and narrowing down to 10 ft. at the river front façade. Modest window openings for residential uses shall be incorporated into the walkway design.
19. A non-commercial building mural may be included on the northeast side of the building as proposed at the Preliminary Plan phase, but shall require approval by the TRC prior to installation to ensure that the content is appropriate and that it is compatible with the character of the area. The mural is an art form, shall not be a sign, and may not contain symbols or other content that relates to a commercial operation.
20. The approved streetscape concept includes a significant sidewalk/plaza with street trees and "bistro" tables. Final streetscape designs shall be further reviewed and approved by the TRC prior to the issuance of a building permit. The tree species shall be subject to final approval by the Town Horticulturist and structural soils may be required for street tree plantings by the Town if a continuous root zone is not provided. Alternatively, concrete pavers may be provided with a continuous root zone for the trees proposed in the Town's Right-of-Way in-lieu of needing structural soils.

Commercial Spaces:

21. The commercial space on the corner of Midland Avenue and Riverside Drive may only be occupied by Community Vitality Uses as defined in the Town's C-2 Zone District regulations or a contractor's office, with the additional provision that it may also contain a sales office solely for the Flying Fish and Pokorny units for a maximum of two (2) years after the first CO is issued on the Flying Fish development. The contractor's office use shall only be permitted in the corner commercial space for the first five (5) years after the issuance of CO on the space and then it shall revert to a Community Vitality Use unless an exception is granted pursuant to the process described below.

The second commercial space may be occupied by any of the commercial, personal service, or office uses permitted in the C-2 Zone District, as may be amended from time to time. If the Applicants find it difficult to obtain a tenant to occupy the corner commercial space as a Community Vitality Use or a contractor's office and would like the ability for a specific non-community vitality use to operate in the space, the Applicants may apply for an exception from the Community Vitality Use requirements through the

process established in Town Code Section 16-29(C)(5), *Community Vitality Uses and Vitality Zone: Exception pursuant to Use Review*.

Restoration Funds:

22. The Applicants shall provide a contribution toward restoration of an existing historic building off-site in the amount of \$125,000. Potential historic buildings/structures include the Arbaney Barn, Arbaney Park Kilns, and the "Basalt Old Brick" school house. Such an off-site contribution shall provide benefits to public non-profit groups consistent with the original cabin restoration proposals that were withdrawn at the Preliminary Plan stage. Dedication to the Town of the land associated with the cabin footprint/location is reflected on the draft plats. The Applicants shall provide the \$125,000 to be put into an escrow account prior to the issuance of a building permit on the Flying Fish Property.

Parking and Loading:

23. Payment of fees in lieu of off-street parking shall be permitted for the shortfall in off-street parking, equaling up to four (4) parking spaces depending on whether the use of the commercial spaces is retail, personal services, or office. Payment of fees-in-lieu based on retail or personal service uses being installed in the commercial spaces shall be provided prior to the issuance of a building permit on the site. If the Applicants would like to install uses other than retail and personal services in the building, the Applicants shall pay the difference between the parking cash in-lieu required for the office use as compared to the retail and personal services uses before the office use is allowed to commence operations. The Applicants shall include provisions in the condominium declarations requiring that unit owners not be permitted to condominiumize and sell or transfer parking spaces separate from transfer of the units. The Applicants shall also include provisions in the condominium declarations prohibiting the garage parking spaces from being used as storage for anything other than vehicles so that the garage parking spaces remain available for use by vehicles.
24. The approved off-street parking configuration permits the allocation of two spaces within the parking garage to each dwelling unit for a total of 18 spaces. The remaining four (4) spaces shall be made available for guest parking and commercial parking demand in accordance with the Applicants' representations. The building's property management shall decide how access to the garage is managed for these parking spaces.
25. Truck parking for deliveries in Flying Fish shall be in the existing Midland Avenue delivery zone and merchandise and supplies shall be hand-trucked to the site from the delivery zone located in front of the Riverwalk buildings.

26. The Town shall retain the authority to modify, add, or eliminate parking or loading areas designated within the Town's Right-of-Way regardless of the provisions of Condition No. 25. Snow storage shall be identified on the final condominium plat and reviewed by the Town Public Works Director prior to recording.

Technical Issues:

27. All exterior lighting shall comply with the Town's lighting code requirements. The TRC shall review and approve of the Final Exterior Lighting Plan prior to the issuance of a building permit to ensure minimal lighting impacts on the Frying Pan River frontage, on adjoining properties, and from lighting within the parking garage. The plan shall also demonstrate that the exterior lighting is sufficiently minimized to the satisfaction of the TRC to protect and minimize interference with the environmental values intrinsic to the adjacent riparian area as is required by Article XXI, Chapter 16, of the Town Code; Rivers, Wetlands, and Environmentally Sensitive Areas. Light sources in the parking garage shall be oriented away from the garage entry and shall be fully shielded and down directed so as not to create a light box as viewed from the adjacent properties and Rights-of-Ways.
28. Based on the referral comments from the Town's Hydrological Consulting Engineer, Rick McLaughlin, a comprehensive foundation protection plan shall be required as part of the building permit application. Said foundation protection analysis shall provide recommendations consistent with the Gary Beech, Bank Stability Study submitted by the Flying Fish Applicants which proposed a low impact bank protection strategy leaving existing vegetation and old foundation walls in place with no major bank stabilization structures. The foundation protection plan shall be reviewed by the Town Engineer to ensure that the Developer extends the depth of the foundation walls along the upstream and river frontages to below the scour depth of the adjacent river. Compliance with the Town's Flood Plain regulations and approval of a Flood Plain Development Permit by the Town Engineer shall be required. If the Town Engineer's review warrants additional flood plain study it will be required as part of his permit review.
29. At the time of recording the Flying Fish Final PUD Site Plan, the Applicants shall deed to the adjoining property owners on the south side of the Fryingpan River any property identified through the development review process that is in conflict with their neighboring surveys/ownership. The intent of this condition is that any boundary line conflict is resolved prior to the recording of the PUD approvals. The Applicants have provided survey documentation of the area in question in their Final Plan submittal showing it as Tract 3 of the final plat, consisting of 753 square feet.

30. The Applicants shall install the electrical infrastructure for the streetlight proposed near the corner of Midland Avenue and Riverside Drive, but shall not install the proposed streetlight. The Applicants shall also install the other streetlight adjacent to Fryingpan Road near the vehicular entrance to the Flying Fish parking garage. The Public Works Director shall review the final streetlight locations prior to the issuance of a building permit to make sure that they do not impact visibility of motorists at the intersection of Midland Avenue and Riverside Drive.

Construction Management Plan:

31. The Applicants shall comply with the construction management plan submitted in the Final Plan application; including the construction parking mitigation measures identified in the application addendum letter from John Olson dated September 15, 2010 with the following exceptions:
 - a. Public Parking in the Midland Avenue Right-of-Way shall not be used for construction purposes; and,
 - b. The Applicants shall approach the RE-1 School District about the potential for the Applicants leasing parking spaces when school is not in session at the nearby Basalt Elementary School. The Applicants shall provide proof of correspondence with the RE-1 School District to the TRC prior to the issuance of a building permit representing a good-faith effort to try and lease parking spaces in the Basalt Elementary School Parking Lot, from which to stage sub-contractor parking; and,
 - c. The Applicants shall install tree protection fencing on the site and shall have the Town Horticulturist inspect the fencing prior to commencing construction activities on the site.

Exemption from River Setback Requirement:

32. A River Setback Exemption for the Flying Fish PUD is approved subject to the building footprint as shown on the Flying Fish Flood Plain Exhibit Drawing included in the Final Plan application dated February 12, 2009.
33. Approval of the River Setback Exemption Request is subject to all of the conditions and recommendations contained herein including but not limited to re-vegetation of disturbed areas with native vegetation, tree preservation, bank stabilization, mitigation of visual impacts of the building, habitat enhancements, public land dedications, removal of the cabin and restoration of the area around the cabin, river park and fisherman access improvements.

Fees and Assessments:

- 34. The Applicants shall contribute on a proportional basis to the cost of implementing the new water storage tank using the methodology and timing of payment in the Town Code and adopted fee schedule (as adopted in Ordinance No. 18, Series of 2008).
- 35. The Applicants shall participate in or contribute on a proportional basis to the future cost of making the transportation improvements that will be necessary to mitigate the cumulative impacts of traffic growth from this and other expected projects. The Applicants shall pay a transportation fee at the time of building permit issuance for each of the individual units based on the following schedule:

Type of Unit	Fee
Free-Market Residential	
Detached	\$.85 per total square foot
Attached (Includes duplexes)	\$.70 per total square foot
RO	
Detached	\$.80 per total square foot
Attached (Includes duplexes)	\$.65 per total square foot
Community Housing	
Detached	\$.45 per total square foot
Attached (Includes duplexes)	\$.35 per total square foot

- 36. The Applicants shall pay a fee-in-lieu of dedicating land for the school district prior to issuance of a building permit on any of the dwelling units within the subdivision at the then current rate.
- 37. The Applicants shall agree to be in a special district to help fund river and flood prevention improvements if one is formed. River improvements are needed to ensure better vehicle exiting for all of Southside in the event flooding occurs and to improve the bank stability of the Roaring Fork and Fryingpan Rivers.

Fire District Conditions:

- 38. The sidewalk on Riverside Drive adjacent to the proposed development shall be sufficiently designed and constructed to handle the load weight of 70,000 pounds in order to accommodate a fire truck parking on it in an emergency situation.

39. The Applicants shall install a fire hydrant near the entrance to parking garage adjacent to Frying Pan Road as proposed in the utility plan provided in the Final Plan application.

Vested Rights and Recording of Documents:

40. Vested property rights shall be granted for a period of five (5) years from the effective date of this ordinance approving the Final PUD Development Plan.
41. The approval documents necessary to effectuate the development approvals include, but are not limited to: 1) the Final PUD Development Plan, 2) a PUD Control Document, 3) a Subdivision Improvements Agreement and cost estimates for associated public improvements, 4) deed restrictions for the two (2) RO Units, and 5) Declaration of Covenants for the Transfer Assessment.

The Applicant shall prepare and execute several key documents required by the Town approvals within 180 days of the effective date of this ordinance or the approvals are null and void unless the TRC has granted an extension as provided below. Only the Final PUD site plan, PUD Control Document, associated Housing Declarations, the deeds to transfer the land referenced in Condition No. 29 to the adjacent property owners and the Declaration of Covenants for the Transfer Assessment shall be required to be reviewed and approved by the Town Attorney and Town Planner and recorded at the Eagle County Clerk and Recorder's Office within 180 days of the effective date of this ordinance. 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 Final PUD site plan, PUD Control Document, associated Housing Declarations and the Declaration of Covenants for the Transfer Assessment to be recorded shall be in conformance with the documents reviewed by the Town Council in the Final Plan review with changes as only deemed necessary by the Town Attorney for clarification purposes to effectuate the intent of the approvals granted herein. The Final Subdivision Plat and Subdivision Improvements Agreement shall be prepared within 180 days of the effective date of this ordinance but do not have to be recorded within the 180 day time period. Instead, the Final Subdivision Plat and Subdivision Improvements Agreement shall be prepared and approved by the Town Planner and Town Attorney within the 180 day period and shall be recorded prior to commencing any construction activities on the site or prior to three (3) years from the effective date of the ordinance, whichever is earlier.

The necessary approval documents are required to be reviewed and approved by the Town Attorney and Town Planner and recorded at the

Eagle County Clerk and Recorder's Office. The Applicants shall provide a letter of credit in an amount necessary to financially secure the installation of the public improvements associated with the Flying Fish Development in conjunction with and prior to recording the Final Subdivision Plat and Subdivision Improvements Agreement. The amount of the financial security shall be approved by the Town Engineer and shall be 110% of the estimated costs to make the public improvements.

Additionally, the Applicants shall provide financial security in an amount of 110% of the costs as approved by the Town Engineer to reclaim the site in the event that the project is started but not completed. The security for reclamation shall be provided prior to commencing construction activities on the site. Reclamation related to this requirement shall be defined as filling in any excavation that has occurred, ensuring river bank is stabilized, revegetating the site with native grass seed and installation of irrigation as approved by the Town Horticulturist. The form of the financial security shall be reviewed and approved by the Town Attorney.

Final Condominium documents will have to be reviewed and approved by the Town Attorney and the TRC prior to recording at the Pitkin County Clerk and Recorder's Office. The condominium plat shall address limited and common areas and access to units, and shall be formatted to conform to final plat requirements.

42. The Applicants shall have the Pokorny approval documents which are required to be recorded within 180 days, recorded concurrently with the Flying Fish approval documents that are required to be recorded within the same time period. If for some reason the Applicants can demonstrate to the Town a need to record one before the other, the Town Attorney will prepare necessary agreements to ensure that the community benefits being provided in the other application are guaranteed.
43. The TRC may review and approve of minor amendments to the approval documents necessary to effectuate the intent of the final development approvals. The Applicants 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.

Exhibit C
Pokorny Conditions of Approval

Representations:

1. The Approved Development Plan for the Pokorny Property shall consist of twelve (12) free-market units and fourteen (14) deed-restricted, category level units as further defined herein.
2. The Applicants shall comply with all representations set forth in the Application. The Applicants shall also comply with all material representations made in hearings before the Planning and Zoning Commission and Town Council.

General Planning Conditions:

3. Combination of units within the PUD shall not be permitted and there shall be no prohibition against the installation of clotheslines in the recorded covenants.
4. Solar Energy shall be required as a major energy source for any snowmelt systems associated with the sidewalk and driveway ramps at the Pokorny PUD.

Community and Replacement Housing:

5. The Final PUD Development Plan approvals include the following community housing provisions:
 - a. Six (6) of the community housing units in the Pokorny Development Project shall be offered first to the current residents of the Flying Fish Property, at the average between Category 1 and Category 2 sales prices as established in the Town's Community Housing Guidelines. Qualified residents to occupy the replacement housing units are further defined in the Flying Fish conditions of approval.
 - b. If the residents of the Flying Fish Property are not able to purchase the six (6) units to be developed in the Pokorny Development Project, then they shall be available to the Town of Basalt at the average between Category 1 and Category 2 sales prices for:
 - i. Purchase by the Town or by a Town/Non-Profit Partnership,
 - ii. Purchase by other government entities, fire, police, and school employees

- iii. Available to other Basalt residents, on a priority basis (i.e. other replacement housing) as a lottery or other open opportunity.

In the event that the Town chooses not to purchase the replacement housing units, they shall be sold at the average between Category 1 and Category 2 sales prices pursuant to the procedures in the Community Housing Guidelines. Alternatively, in the event that the Town and the Flying Fish Residents choose not to purchase the replacement housing units, the Applicants may choose to retain the units and rent them out at the average between the Category 1 and Category 2 rents established in the Town's Community Housing Guidelines. Overall, the Category-level units within Pokorny shall have initial maximum sales prices and rents that average Category 2/3 on a per bedroom basis (i.e. the Applicants are permitted to sell or rent 8 bedrooms at Category 3 initial sales prices or rents to counteract the requirement to sell or rent the replacement housing units at the Category 1/2 prices or rents).

- c. The category level community housing units shall only pay a proportionate share of the homeowner's association dues and assessments based on the HOA dues and assessment methodology established in the Town's Community Housing Guidelines.
- d. The Applicants shall only list all the units within the development for sale with a local realtor with a primary office within the Roaring Fork Valley.
- e. The development shall satisfy the Town's policy for a minimum 1% Real Estate Transfer Assessment to be used for community benefits. Dwelling units which sell for \$1 Million or more shall have an additional 1% RETA so that the RETA is a total of 2% for those dwelling units.
- f. The fourteen (14) category-level units shall be subject to deed restrictions as necessary and approved by the Town Attorney to implement the Town's Community Housing program and the conditions contained herein.

Concurrency between Flying Fish and Pokorny Projects

6. Except for the RO units to be built on the Flying Fish Property, certificates of occupancy for the Community Housing Units required pursuant to the Flying Fish PUD and Pokorny PUD approvals shall be issued prior to or concurrently with certificates of occupancy for any free-market residential units within the Pokorny PUD. Certificates of occupancy for the two (2) RO units required on the Flying Fish Property shall be issued prior to or concurrently with the certificates of occupancy for any free-market residential units on the Flying Fish Property. The cabin on the Flying Fish site can be demolished prior to the issuance of community housing certificates of occupancy.

Parkland Dedication & Open Space:

7. Subject to the provision of the additional amenities noted in the Flying Fish conditions of approval, the 1.09 acres of parkland dedication and park improvements as proposed by the Applicants' most recent application for the Flying Fish property, in combination with the two (2) benches, one picnic table, and the child's play area to be developed on the Pokorny property shall be acceptable for the dwelling units proposed in the Final Plan application.
8. The Open Space and Landscaping Plan for the Pokorny PUD is approved subject to the following provisions:
 - a. The specifications for the outdoor furniture and playground equipment to be installed by the Applicants shall be as provided in the Final Plan application.
 - b. The Town Horticulturist shall review and approve of the final tree mitigation plan prior to the Applicants being able to record the final approval documents.
 - c. The Applicants shall submit an irrigation plan for review and approval by the Town Horticulturist prior to being allowed to record the final approval documents.
 - d. Any roots of trees to be preserved that are encountered during the construction process shall be cleanly cut with a sharp pruning saw or bypass pruners to a point on the root where damage is not evident. Vegetation to be preserved during the construction process shall be adequately irrigated to the satisfaction of the Town Horticulturist.

9. A tree removal permit application shall be submitted for the trees to be removed. The Applicants shall install tree protection fencing around the drip lines of the trees to be protected.

Green Building Concepts & Energy Efficiency:

10. The development shall meet the more restrictive of obtaining a score of at least 88 points on the Aspen/Pitkin County Efficient Building Point System or meeting the Town's Efficient Building Program in affect at the time of building permit submittal as determined by the Town's Building Official.

Site Plan, Design, and Development Program:

11. The approved zoning designation for the parcel is R-4 PUD and the approved dimensional requirements shall be as follows:

Dimensional Requirement	Approved Measurement
Min. Lot Area For Development Parcel	65,340 square feet
Building Height	33 Feet to Ridge of a Pitched Roof and 30 Feet to Top of Flat Roof with the additional provisions for solar panels
# of Stories	2 (not including parking)
Front Yard Setback	Varies as shown on the Pokorny PUD Development Plan prepared by High Country Engineering dated 2/9/09
Rear Yard Setback	Varies as shown on the Pokorny PUD Development Plan prepared by High Country Engineering dated 2/9/09
Side Yard Setback	Varies as shown on the Pokorny PUD Development Plan prepared by High Country Engineering dated 2/9/09
Floor Area	33,626 square feet of

	total floor area (not including the parking level)
Floor Area of Parking	18,609 square feet of total floor area for the parking garages
Parking	50 off-street parking spaces for use by the occupants of the residential units and 17 on-street parking spaces for use by visitors of the residential units in the adjacent rights-of-way

12. Height exceptions up to seven (7) feet above the flat roof shall be permitted for the installation of solar equipment on the roof subject to further evaluation of plans, including the actual proposed height of the installation and confirmation of compliance with the zoning code limitations. Said allowances shall also be subject to confirmation that the solar equipment is of a non glare type of material and designed/installed in a manner to reduce impacts on adjoining properties and views. The TRC may deny the potential for installation of solar panels on the building fronting on Alexander Lane if the solar panel plan would negatively impacts the aesthetics of the Alexander Lane streetscape or the relationship with the neighboring properties.
13. Height exceptions for parapet details may be permitted in order to shield mechanical equipment on the roof. Said allowances shall be subject to TRC review and approval at the time of building permit submittal in order to confirm that they meet the intent of the PUD approvals. The parapet walls may be at most three (3) feet above the flat roof.
14. No roof top activities shall be permitted. Roof top mechanical equipment shall be shielded by parapet details. The overall roof color shall also be selected to minimize visual impacts and glare.

Parking:

15. The Town shall retain the authority to modify, add, or eliminate parking designated within the Town's Right-of-Way.
16. The Applicants shall build the on-street parking proposed in the Summerset Lane Right-of-Way with the second building to be built on Pokorny and if Basalt Design District receives approval and dedicates an easement for the

parking to be located off of the alley to the north of the Pokorny Property before the Applicants commence construction on the second building in Pokorny, the Applicants shall build the nine (9) on-street parking spaces in the alley to the north instead of on Summerset Lane.

If each of the buildings on Pokorny are being constructed concurrently prior to Basalt Design District granting an easement for parking in the alley to the north, the TRC may waive the requirement to construct the visitor parking in the Summerset Lane Right-of-Way and instead require the Applicants to provide a letter of credit in an amount equal to the estimated cost to construct the nine (9) spaces in the Summerset Lane Right-of-Way so that the Town can construct them in the alley to the north once an easement is dedicated.

17. The Applicants shall include provisions in the condominium declarations requiring that unit owners not be permitted to condominiumize and sell or transfer parking spaces separate from transfer of the units. The Applicants shall also include provisions in the condominium declarations prohibiting the garage parking spaces from being used as storage for anything other than vehicles so that the garage parking spaces remain available for use by vehicles and shall limit the purchasers or renters of the one-bedroom units to individuals and families that only own one vehicle. The Applicants shall also sign each of the parking spaces at the closed ends of the garages for compact cars only to ensure appropriate turning movement in and out of these end spaces.

In condominiumizing the buildings, the establishment of the limited common elements shall be set up in a manner to ensure that the compact vehicle parking spaces are assigned to units that are allocated at least two (2) spaces and it shall be identified in the recorded covenants and condominium map to ensure that potential purchasers of the unit that includes the compact vehicle parking as a limited common element is informed that they are receiving a compact vehicle parking space.

Technical Issues:

18. All exterior lighting shall comply with the Town's lighting code requirements. The TRC shall review and approve of the Final Exterior Lighting Plan prior to the issuance of a building permit to ensure minimal lighting impacts on adjoining properties, and from lighting within the parking garages. Light sources in the parking garages shall be oriented away from the garage entry and shall be fully shielded and down directed.
19. The Applicants shall obtain annexation into the Basalt Sanitation District prior to the filing the final annexation documents with the Pitkin County Clerk

and Recorder's Office for annexation into the Town of Basalt. The Applicants shall obtain a variance from the Basalt Sanitation District to construct a manhole in the sidewalk or amend their utility plan so as not to require the installation of a manhole in the sidewalk prior to recording the approval documents.

20. The Applicants shall provide engineering drawings at the time of building permit submittal for review by the Town Engineer identifying that the pavement thickness of Summerset Lane to be constructed by the Applicants to the east of the development will satisfy the Town's pavement thickness and composition requirements.
21. The Applicants shall construct the traffic-calming improvements on Summerset Lane as proposed in the Final Plan application. The Applicants shall also install traffic signage as required by the Town Engineer at the intersection of Summerset Lane and Fiou Lane in association with the intersection improvements that are included in the Final Plan application.

Construction Management Plan:

22. The Applicants shall comply with the construction management plan submitted in the Final Plan application.
23. The Applicants shall install tree protection fencing on the site and shall have the Town Horticulturist inspect the fencing prior to commencing construction activities on the site and prior to staging construction parking and materials on the site. The Applicants shall also install a temporary irrigation system on the site to water the trees to be preserved prior to commencing construction activities and have it inspected by the Town Horticulturist. The Applicants shall also conduct root trenching around the area of disturbance for the development in consultation with the Town Horticulturist to protect the trees to be preserved.

Fees and Assessments:

24. The Applicants shall contribute on a proportional basis to the cost of implementing the new water storage tank using the methodology and timing of payment in the Town Code and adopted fee schedule (as adopted in Ordinance No. 18, Series of 2008).
25. The Applicants shall participate in or contribute on a proportional basis to the future cost of making the transportation improvements that will be necessary to mitigate the cumulative impacts of traffic growth from this and other expected projects. The Applicants shall pay a transportation fee at the

time of building permit issuance for each of the individual units based on the following schedule:

Type of Unit	Fee
Free-Market Residential	
Detached	\$.85 per total square foot
Attached (Includes duplexes)	\$.70 per total square foot
RO	
Detached	\$.80 per total square foot
Attached (Includes duplexes)	\$.65 per total square foot
Community Housing	
Detached	\$.45 per total square foot
Attached (Includes duplexes)	\$.35 per total square foot

26. The Applicants shall pay a fee-in-lieu of dedicating land for the school district prior to issuance of a building permit on any of the dwelling units within the subdivision at the then current rate.
27. The Applicants shall agree to be in a special district to help fund river and flood prevention improvements if one is formed. River improvements are needed to ensure better vehicle exiting for all of Southside in the event flooding occurs and to improve the bank stability of the Roaring Fork and Fryingpan Rivers. The annexation agreement shall include provisions to this affect.

Fire District Conditions:

28. The Applicants shall install Fire Sprinkler and Fire Alarm Systems meeting the requirements of the Fire Code are installed in each building.
29. The parallel parking spaces to be provided on Alexander Lane by the Applicants shall be spaced to leave room for the Fire District’s aerial to put out its outriggers as proposed in the site plan.
30. A standpipe meeting the requirements of the Fire Code shall be installed northernmost building.

Vested Rights and Recording of Documents:

31. Vested property rights shall be granted for a period of five (5) years from the effective date of this ordinance approving the Final PUD Development Plan.
32. The approval documents necessary to effectuate the development approvals include, but are not limited to: 1) the Annexation Agreement, 2)

the Annexation Map, 3) the Final PUD Development Plan, 4) a PUD Control Document, 5) a Subdivision Improvements Agreement and cost estimates for associated public improvements, 6) deed restrictions for the Category Units, and 7) Declaration of Covenants for the Transfer Assessment.

The Applicant shall prepare and execute several key documents required by the Town approvals within 180 days of the effective date of this ordinance or the approvals are null and void unless the TRC has granted an extension as provided below. Only the Annexation Agreement, the Annexation Map, Final PUD site plan, PUD Control Document, associated Housing Declarations, and the Declaration of Covenants for the Transfer Assessment shall be required to be reviewed and approved by the Town Attorney and Town Planner and recorded at the Pitkin County Clerk and Recorder's Office within 180 days of the effective date of this ordinance. 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 Annexation Agreement, Annexation Map, Final PUD site plan, PUD Control Document, associated Housing Declarations and the Declaration of Covenants for the Transfer Assessment to be recorded shall be in conformance with the documents reviewed by the Town Council in the Final Plan review with changes as only deemed necessary by the Town Attorney for clarification purposes to effectuate the intent of the approvals granted herein. The Final Subdivision Plat and Subdivision Improvements Agreement shall be prepared within 180 days of the effective date of this ordinance but do not have to be recorded within the 180 day time period. Instead, the Final Subdivision Plat and Subdivision Improvements Agreement shall be prepared and approved by the Town Planner and Town Attorney within the 180 day period and shall be recorded prior to commencing any construction activities on the site or prior to three (3) years from the effective date of the ordinance, whichever is earlier.

The necessary approval documents are required to be reviewed and approved by the Town Attorney and Town Planner and recorded at the Pitkin County Clerk and Recorder's Office. The Applicants shall provide a letter of credit in an amount necessary to financially secure the installation of the public improvements associated with the Flying Fish Development in conjunction with and prior to recording the Final Subdivision Plat and Subdivision Improvements Agreement. The amount of the financial security shall be approved by the Town Engineer and shall be 110% of the estimated costs to make the public improvements.

Additionally, the Applicants shall provide financial security in an amount of 110% of the costs as approved by the Town Engineer to reclaim the site in

the event that the project is started but not completed. The security for reclamation shall be provided prior to commencing construction activities on the site. Reclamation related to this requirement shall be defined as filling in any excavation that has occurred, ensuring river bank is stabilized, revegetating the site with native grass seed and installation of irrigation as approved by the Town Horticulturist. The form of the financial security shall be reviewed and approved by the Town Attorney.

Final Condominium documents will have to be reviewed and approved by the Town Attorney and the TRC prior to recording at the Pitkin County Clerk and Recorder's Office. The condominium plat shall address limited and common areas and access to units, and shall be formatted to conform to final plat requirements.

33. The Applicants shall have the Pokorny approval documents which are required to be recorded within 180 days, recorded concurrently with the Flying Fish approval documents that are required to be recorded within the same time period. If for some reason the Applicants can demonstrate to the Town a need to record one before the other, the Town Attorney will prepare necessary agreements to ensure that the community benefits being provided in the other application are guaranteed.
34. The TRC may review and approve of minor amendments to the approval documents necessary to effectuate the intent of the final development approvals. The Applicants 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.
35. The Pokorny Property shall be zoned R-4 (High Density) PUD.
36. The Applicants shall include language in the Declaration of Covenants for Pokorny disclosing to all the pre-existence of industrial and light industrial land uses adjacent to the Pokorny site that have impacts including but not limited to noise and further acknowledging the likely continuance of said industrial and light industrial land uses. This language shall be reviewed and approved by the Town Planner and Town Attorney.