

**RESOLUTION OF THE TOWN COUNCIL OF BASALT, COLORADO, GRANTING
SKETCH PLAN APPROVAL FOR A SUBDIVISION AND PLANNED UNIT
DEVELOPMENT FOR PROPERTY KNOWN AS THE FLYING FISH PROPERTY**

**Town of Basalt, Colorado
Resolution No. 12
Series of 2007**

RECITALS

1. The Estate of Mary Coleman Peer as represented by Doug Olson, Doug Olson Inc. and Raul Gawrys ("Applicant"), submitted an application for Sketch Plan PUD and Subdivision for the property known as the Flying Fish Property, which property is more particularly described in **Exhibit A** ("Property"). Said application was subsequently revised through the sketch plan review process including major amendments submitted on April 3, 2007 .

2. The Applicant requests approval for a 1.48 acre PUD and to permit a mixed use building with commercial square footage, approximately 9 dwelling units, a river setback exemption, and related subdivision of land, all as more fully described in the application.

3. The zoning shall include PUD control regulations which address architectural design guidelines, permitted residential and commercial uses, floor area provisions, access and parking provisions, private open space, riverfront parks, pedestrian access and improvements, landscaping and tree preservation provisions.

4. The Planning and Zoning Commission considered the application at a public meeting beginning on July 6, 2006, and continuing through March 6, 2007. Throughout the meetings, evidence and testimony was offered by the Applicant, staff and members of the public.

5. The Basalt Town Council considered the application at a public meeting beginning on November 21, 2007, and continuing through June 26, 2007. Throughout the meetings, evidence and testimony was offered by the Applicant, staff and members of the public.

6. The Basalt 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 Resolution.

Please return to:
TOWN OF BASALT
101 Midland Avenue
Basalt, CO 81621

NOW, THEREFORE, BE IT RESOLVED by the Basalt Town Council of Basalt, Colorado, as follows:

The Basalt Town Council incorporates the above recitals and all exhibits as references and as findings and determinations, and conclusively makes all of the findings of fact, determinations and conclusions contained herein.

FINDINGS

1. Based on the evidence, testimony, exhibits, and comments from the public, Applicant and Town staff, the Basalt Town Council finds and determines as follows in accordance with Town Code Section 16-63(b) for the purposes of sketch plan approval:
2. The PUD Plan conforms with the provisions of Chapter 16 of the Town Code provided that the conditions contained in this resolution are satisfied.
3. The PUD development will not have an adverse environmental impact, such as excessively increasing traffic hazards or congestion, overloading utilities or otherwise being detrimental to the general welfare of the community.
4. The PUD development will complement and be integrated with the existing and approved but not yet existing development in the area.
5. The PUD development will provide numerous community benefits.
6. The variations from the strict requirements of the Town Code are designed to improve the efficiency of the development pattern, preserve existing natural assets, accomplish a more desirable residential or commercial environment, or encourage the use of open space and recreational facilities.
7. The variances from strict compliance with the Code requirements are justified because the PUD Plan exceeds certain design standards or contains certain exceptional and desirable features that enhance the overall PUD Plan.
8. The PUD Plan satisfies one or more of the purposes set forth in § 24-67-102(1), C.R.S.
9. The Applicant's request for a river setback exemption is premature for final approval and will require additional review concurrent with the Preliminary PUD Plan Applications subject to the required procedures and findings in provided for in Section 16-463 (b)(4).

CONCLUSIONS

Based on the evidence, testimony, exhibits, and comments from the public, Applicant and Town Staff, the Basalt Town Council hereby grants approval for the Sketch Plan Planned Unit Development and Subdivision for the Flying Fish Property, subject to the conditions contained herein and within **Exhibits B, C, D, E and F** and continues consideration of the river setback exemption for additional review concurrent with the Preliminary PUD Plan review.

1. Applicant shall comply with all material representations made by Applicant in the application including the supporting documents and in the meetings before the Planning and Zoning Commission and Basalt Town Council.

2. In addition to the submission contents required by the Town Code, the Preliminary Planned Unit Development and Preliminary Subdivision Plat Submittal ("Preliminary Submittal") shall include the following:

a. Demonstration of compliance with the Basalt Master Plan.

b. The Preliminary Submittal shall demonstrate compliance with the comments received by referral agencies which are not inconsistent with the recommendations made by the Basalt Planning and Zoning Commission and Basalt Town Council.

c. The Preliminary Submittals shall include a complete river setback exemption request including detailed surveys of the high water line, proposed building footprints, flood plain elevations, plans for bank stabilization, and plans for the riverfront park and pathway.

3. This approval is contingent upon concurrent review of the Pokorny Application and continued review of the River Setback Exemption Request and is subject to the Applicant successfully satisfying the Town Code requirements and conditions for said applications. Because the sketch plan approvals for the Flying Fish rely on these other applications for satisfaction of Town Code requirements, failure to obtain approvals of said applications shall render this sketch plan approval null and void.

4. This Resolution shall be recorded with the Offices of the Clerk and Recorder of Eagle County.

5. The approval granted hereby shall be valid for one year from the date of the vote hereon and shall be void if a complete Preliminary Plan Submittal is not submitted to the Town by that date.

6. Pursuant to Section 16-65(b)(2) and Section 17-84(a)(2), Town Code, this approval shall not form the basis for any actionable reliance for the Applicant and shall not create any obligation for the Town Council to provide later approvals including river setback exemption and does not bind the Town Council to approve the preliminary plat for the property.

READ AND ADOPTED by a vote of 5 to 1 on June 26, 2007.

TOWN OF BASALT, COLORADO

By: _____
Leroy Duroux, Mayor

ATTEST:

By: _____
Pam Schilling, Clerk

EXHIBIT A
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 $86^{\circ}13'42''$ W 845.93 feet; Thence along the Southeasterly right-of-way line of said Fryingpan Road on the following five (5) courses: N $41^{\circ}54'23''$ E 148.54 feet; thence N $50^{\circ}10'59''$ E 251.85 feet; thence N $58^{\circ}52'07''$ E 64.66 feet; thence N $41^{\circ}08'48''$ E 33.44 feet; thence N $57^{\circ}44'59''$ 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 $88^{\circ}41'00''$ E 18.17 feet along the Southerly boundary line of said Lot 1; thence S $19^{\circ}55'01''$ 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 $62^{\circ}12'38''$ W 71.13 feet; thence S $39^{\circ}03'20''$ W 155.50 feet; thence S $23^{\circ}12'56''$ W 83.23 feet; thence S $30^{\circ}29'28''$ W 65.63 feet; thence S $28^{\circ}25'00''$ 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 $56^{\circ}28'08''$ W 60.39 feet; thence N $45^{\circ}16'10''$ W 49.49 feet; thence N $55^{\circ}46'30''$ 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.

Exhibit “B”
Flying Fish Housing and Parkland Requirements

1. In accordance with the Applicant’s latest submittals and representations to Town Staff, the Applicant shall provide 12 Affordable Housing units located within Building A on the Pokorny site. Four free market units shall also be located within Building A for a total of 16 units. The Affordable Housing proposed will exceed the Town Code requirements.
2. The Development shall provide an affordable housing program that meets the Town Code under the parameters listed in the PUD and Subdivision Sketch Plan approval Resolution for the Pokorny Property, Resolution No. 11, Series of 2007.
3. A parkland dedication of 1.08 acres on the Flying Fish site, comprised of a minimum of 0.37 acres of dry river bank and public park amenities (river front trail, benches and similar improvements) would be deemed acceptable for satisfying the parkland dedication requirements for the Flying Fish Property and the Pokorny Property as approved for PUD and Subdivision Sketch Plan, by Resolution No. 11, Series of 2007, with any balance of remaining requirements to be met by fees to be dedicated for park and open space improvements adjacent to or on the Flying Fish Property and Pokorny Property¹.
4. The Applicant’s proposals for Parkland Dedication include a small area on the south side of the Frying Pan River that is the subject of a survey conflict with the adjoining property owners. No final approvals shall be granted unless a satisfactory resolution of the survey conflict has been achieved as determined by the Town Attorney. No parkland dedication shall be approved or credited for portions of the site that are subject to survey conflicts.
5. The Applicant shall submit for review as part of the Preliminary PUD Plan a complete river front trail and park plan for the Flying Fish property. The plan shall include landscaping, fisherman access improvements and habitat enhancements.
6. The Town Code Recreational Open Space requirements contained in Section 16-73 (c)(2) shall be met by the on-site improvements including amenities such as benches, picnic tables, and fisherman access improvements. Each unit shall also be required to meet the private open space requirements of the PUD regulations through patios or decks that meet at a minimum the code required area.

¹The area of parkland dedication may be impacted by storm water detention facilities.

Exhibit "C"
Flying Fish – River Setback Exemption

1. The maximum extent of relief for the mixed use building shall be that area shown on the Applicant's amended site plan dated January 18, 2007, as further clarified below. The site plan reflects that the habitable portions of the building shall maintain a river setback ranging from approximately 35 ft. to more than 50 ft. The retaining wall for the access drive will be permitted with a minimum 30 ft. setback to the high water line as established by the Town. The Preliminary PUD Plan Application shall update the site plan based on the conditions contained herein and the updated high water line established by the Town. The Preliminary PUD Plan shall include a clear delineation of the area of river setback exemption, which shall not exceed that area shown on the January 18, 2007, site plan. Minor modifications to the extent of relief, as necessary to accommodate the below grade parking garage dimensions, may be considered as part of the Preliminary PUD Plan review and ongoing review of the River Setback Exemption. The formal approval of the River Setback Exemption shall occur simultaneously with the Final PUD Plan and Subdivision approvals. Nothing herein shall prevent the Planning and Zoning Commission and Town Council from making modifications to the extent of the exemption to be granted at the Preliminary and Final PUD Plan review stages.

2. The River Setback Exemption Request shall be 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. The approval is also subject to the Applicant's representations that the net area of impacts and encroachments into the river setback shall be reduced by the currently proposed development plan.

Exhibit “D”
Flying Fish Planning Issues

1. The current proposal by the Applicant has 9 residential units, a small commercial space (1,192 sq.ft.) and habitable square footage of 19,440 sq.ft. (29,698 sq.ft. including the parking garage). The development shall be limited to a maximum of 17,000 gross total square feet (not including the parking garage). However, subject to additional review of a model and refinements to the building design including creation of major relief in the building façade or a break/cut through the building, up to 19,000 gross total square feet of building (not including the parking garage) may be approved. The Applicant shall provide as part of the Preliminary Submittals a detailed model of the proposed mixed use building which model shall be adjustable to reflect: (a) designs with both 17,000 gross total square feet and 19,000 gross total square feet, (excluding the parking garage); (b) inclusion or removal of the elevated habitable living space over the walkway through the building; (c) adjustments to the river setback exemption for the parking garage element; (d) adjustments depending on the use of ramps or lifts for access to the below grade parking garage.. The model shall include details on adjoining downtown properties to allow assessment of relationships between the proposed building’s scale and mass and adjacent properties and other buildings in the vicinity.

2. Excerpts from the 2007 Master Plan typologies for river front properties and for the Midland Avenue downtown area shall be utilized in developing final designs for the mixed use building. The current submittals are not in compliance with the typologies, nor the River Front Design Guidelines included by reference in the 1999 Master Plan. The design component of the building shall require revisions as part of the Preliminary PUD Plan review including but not limited to:

- a. Stepping back the top (3rd floor) of the building.
- b. No increase in building height over 30 ft. code limit unless warranted by flood plain elevation requirements.
- c. Varying type of roof configuration including elimination of the mansard roof shown in the current architectural concepts.
- d. Inclusion of a more residential character in the design for the rear of the building.
- e. More information on exterior finishes, demonstrating the use of materials to blend with the native environment and soften the visual impacts.
- f. Use of landscaping walls and other techniques to soften the visual impacts of the parking garage level and driveway retaining wall.
- g. Concept lighting plan and fixture details to demonstrate low impacts on the river environment and adjoining properties.
- h. Additional architectural tools/techniques are needed to lessen the mass and scale of the building, further break up the façade, and reduce the impact of the long length of the building especially as it faces the river.
- i. The Midland Avenue frontage needs to include additional elements drawn from the existing downtown Basalt vernacular.

- j. Provision of story poles at Preliminary PUD Plan review of building height, along with additional site visits.
- k. Possible allowance for a small percentage of the building (maximum 10%-15% of the footprint) to exceed the 30 ft. building height for design variation. Said allowances shall be limited to the front half of the building (toward the street) with no increased height allowed along the Frying Pan River. No further increases in height shall be considered.
- l. Design concepts presented at the June 12, 2007 Town Council meeting that included a split in the building configuration shall be included in the Preliminary PUD Plan designs. The elevated habitable living space over the walkway shall be eliminated as it diminishes the effectiveness of the building separation both on the front elevation and even more so on the rear/river side elevation.

3. No affordable housing shall be required on the Flying Fish site based the number of units and the mix of category types to be provided on the Pokorny Property, provided that the other staff recommendations are met including floor area limitations and design recommendations for the Flying Fish Property. The small commercial space shall be free market, but limited to retail, service, or food and beverage, with no ground floor office.

4. The cabin restoration plan may be eliminated from the Preliminary PUD Plan submissions subject to the following conditions:

- a. The Applicant shall prepare a cost analysis of the original restoration proposal to determine the financial benefit that was to be provided to the Town.
- b. Consideration shall be given at Preliminary PUD Plan review to providing a comparable financial benefit/contribution toward restoration of an existing historic building off-site. Potential buildings include the Arbaney Barn 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.
- c. Dedication to the Town of the land associated with the cabin location on the Flying Fish Property shall be required.

5. The Applicant's berm along the rear of the building adjacent to the Frying Pan River shall be updated at Preliminary Plan review including compatibility with the new site plan, pathway through the building, and the recommendations of the Roaring Fork Conservancy. A complete landscaping plan for the site shall be submitted as part of the Preliminary PUD Plan review, along with an updated Tree Evaluation and Preservation Report. The report will expand on the current document to include specific recommendations on tree protection (including fencing), root pruning, hazard mitigation, re-vegetation species approved by Town Horticulturist, and strategies to maintain trees to buffer visual impacts (even if it requires selective topping and pruning). The report will be completed by a professional consultant approved by the Town of Basalt and shall

be coordinated with the Town Horticulturist. The landscaping plan shall include essential details including but not limited to species types, numbers of plantings, size of plantings, general grading plan, preliminary designs for sitting walls and planters, habitat enhancements, solar and micro-climate considerations, and irrigation recommendations.

6. On-street parking along Frying Pan road shall be studied as part of the Preliminary PUD Plan review and traffic studies along with drop off and loading areas. Mixed use parking reduction requests and requests for parking credit for on-street parking spaces may be considered as part of the Preliminary PUD Plan review. No on-street parking shall be permitted along the Riverside Drive frontage. Whether the parking is adequate for the site shall be reviewed during the Preliminary PUD Plan process with the potential for requiring a reduction in the unit count or bedroom count and the payment of fees in lieu of parking in order to meet the parking requirements.

7. The Preliminary PUD Plan updated site plan shall address trash and garbage storage and service/removal from the site.

8. The Preliminary PUD Plan submissions shall include extra detail on lighting limits and restrictions on outdoor hot tubs to lessen impacts on the neighborhood, the ESA area and the river environment.

9. Fifty percent of the rooms classified as a “study” in final floor plans for the units shall be included as bedrooms in the off-street parking calculations. This requirement is in intended to avoid increasing parking demand over the life of the project and unintended impacts on the surrounding neighborhood in light of the density of the development.

10. Automobile lifts have been proposed by the Applicant to serve the below grade parking garage. Use of the lifts shall be subject to additional review as part of the Preliminary PUD Plan. Said review shall confirm the reliability, convenience and functionality of the lifts as proposed by the Applicant. Additional review shall address energy consumption, use of two lifts in tandem, and evaluation in light of the mixed use parking reduction request. The Applicant shall demonstrate that the lifts would not become a disincentive for resident’s use of the garage spaces and result in increased demand for on-street parking locations.

Exhibit “E”
Flying Fish Engineering Issues

1. The Preliminary PUD Plan Application shall address the concerns outlined in referral comments including but not limited to comments from the Town Engineer, Consulting Engineer, Basalt and Rural Fire Protection District, and Division of Wildlife.
2. Detailed engineered bank stabilization plans shall be prepared by a licensed engineer or other professional trained in the appropriate field. Said consultant shall be approved by the Town of Basalt. The plans shall be consistent with the bank stabilization report and recommendations submitted with the sketch plan application.
3. Updated flood plain mapping for the site has been provided and the new submittals reflect that the building is located within the 100 year flood plain. This information warrants a more thorough evaluation as part of the Preliminary PUD Plan review of bank stabilization, compliance with flood plain development regulations, and the river setback exemption. Preliminary Submittals shall delineate the building footprint and the location of the 100 year flood plain and floodway. The Applicant shall provide confirmation that the appropriate datum is utilized to ensure the mapping is consistent with the official FEMA flood plain maps and elevations. Through the above mapping and related engineering information the Applicant shall confirm that the below grade parking garage proposal is FEMA compliant and compliant with the Town of Basalt Flood Plain regulations and shall apply for any Flood Plain Development permits as required by the Town Code.
4. A preliminary engineering report shall be provided prior to review of the Application by the Town Council. The report shall address utilities including water and sewer, underground electric, telephone, gas and cable utilities, storm water drainage, the access drive grade and stacking. Utility plans shall include:
 - a. Water main extensions and the provision of an additional fire hydrant.
 - b. Sewer line extensions and/or lift stations as needed to serve the site.
 - c. Fire suppression sprinklers in the building with the appropriately sized water services.
 - d. Storm water detention plans.
 - e. Water quality treatment for storm water discharges. The plans shall ensure that runoff is captured and filtered before going into the Frying Pan River.
 - f. Below grade utilities for the site.
 - g. Grading plans that comply with the Town’s Flood Plain Regulations.
5. A traffic engineer’s report shall be submitted as part of the Preliminary PUD Plan Application detailing potential impacts on Frying Pan road and recommendations for mitigating such impacts. The traffic report shall be inclusive and address parking, drop-off and loading options, intersection improvements, safety, traffic calming, shading and icing issues resulting from the height and proximity of the building to the driving lanes, and

roundabout designs.

6. The Applicant's building footprint adjacent to Frying Pan road is supported as starting point for roundabout studies. The Town shall prepare a detailed analysis of the feasibility of a roundabout at the Riverside drive intersection with Midland Avenue. The study shall be coordinated by the Town Engineer and shall be completed by a licensed traffic engineer approved by the Town of Basalt. The study shall include detailed surveys of the existing right-of-way and physical features adjacent to the proposed roundabout location and conceptual designs for roundabout options. The study shall include plans that accommodate a roundabout with a diameter dimension of 90 ft. The Town shall seek the Applicant's input on the feasibility study and the Applicant's Preliminary PUD Plan shall be designed to accommodate the roundabout design. The plan shall also address the following options and issues:

- a. Smaller diameter roundabouts, including a definition of vehicles that can negotiate the smaller roundabout dimensions
- b. Different paving/plaza options
- c. Roundabouts that utilize striping for delineation
- d. Traffic calming improvements
- e. Pedestrian safety enhancement
- f. Roll-over designs that allow larger vehicles (fire trucks, buses, towing vehicles/boats, snow removal, street maintenance trucks) to pass over the center of the roundabout
- g. Options for the roundabout while still accommodating the size of the proposed below grade parking structure (e.g. licensing of portions of the right-of-way)
- h. Additional right-of-way dedications that may be required from the Flying Fish site
- i. Impacts on existing on-street parking

7. A Level 1 Environmental Assessment shall be completed prior to Preliminary PUD Plan submission. The results of the assessment shall be reviewed with Town Staff including the Town Engineer prior to submitting for Preliminary PUD Plan. Staff shall provide the Applicant with an updated submittal checklist based on the findings of the assessment which may include additional analyses and supplemental information. The Applicant shall commit to the removal of any hazardous waste, contaminated soils, and/or other hazardous debris/materials found on the site. Compliance with the recommendations and requirements of the Level 1, Environmental Assessment is anticipated as part of the Preliminary PUD Plan review.

8. As part of the Preliminary PUD Plan review the Town shall provide direction to the Applicant regarding participation in the future costs of the new water storage tank and off-site traffic improvements. In addition the Town shall consider whether additional water rights dedications or fees shall be applicable to this development, giving credit for existing dwellings.

9. The Applicant's site plans (see engineering submittals) need to be modified to eliminate any right-of-way encroachments for the proposed building footprint. Licensing portions of the Town's right-of-way, adjacent to the sidewalk for landscaping and awnings to improve the character of the building elevations shall be considered.

10. TRC meetings with the Applicant and their engineers have indicated that traditional storm water detention ponds will not likely be feasible on site in light of the Applicant's current site plan and landscaped berm along the rear of the building. Dry well installations will have to be carefully configured and designed and may be coordinated within other site improvements such as the auto plaza. Dry wells or other detention facilities shall not be located within property being dedicated to the Town.

Exhibit “F”
Flying Fish Financial Implications

1. The Applicant shall be required to pay fees as required by the Town code and as set forth herein. In addition the Applicant shall be required to provide financial security for all required improvements. For off- site improvements including the round about the Applicant shall be required to participate in the improvements on a pro-rata share to be determined as part of the Preliminary and Final PUD Plan reviews.

2. The Town Council should provide additional guidance during the Preliminary PUD Plan review regarding existing annexation policies including but not limited to RETA and whether they should be applicable to the Flying Fish development based on its joint application status with the Pokorny Property which is an annexation.