



RESOLUTION OF THE TOWN COUNCIL OF BASALT, COLORADO, AMENDING THE FLYING FISH AND POKORNY PRELIMINARY PLAN RESOLUTION, ALLOWING FOR AN EXTENSION OF THE FLYING FISH AND POKORNY PLANNED UNIT DEVELOPMENT PRELIMINARY PLAN APPROVALS FOR THE PROPERTIES KNOWN AS THE FLYING FISH PROPERTY AND THE POKORNY PROPERTY

**Town of Basalt, Colorado
Resolution No. 15
Series of 2009**

RECITALS

1. Flying Fish Holdings, LLC. and Alexander Holdings, LLC ("Applicants"), submitted in February of 2008, applications for Preliminary Plan PUD for the properties known as the Flying Fish Property and the Pokorny Property, which properties are more particularly described in **Exhibit A** (The "Flying Fish Property") and **Exhibit B** (The "Pokorny Property"). Said applications were subsequently revised through the preliminary plan review process.
2. The Applicants received preliminary plan approvals pursuant to Town Council Resolution No. 15, Series of 2008.
3. The Applicants submitted a request to extend their preliminary plan approvals by two (2) months in November of 2009.
4. The Planning and Zoning Commission considered and granted a four (4) month extension to the Preliminary Plan approvals at their meeting on December 1, 2009, contingent upon the Town Council's approval of an amendment to Resolution No. 15, Series of 2009, to allow for an extension of the Preliminary Plan approvals and subject to the following conditions:
 - a. All provisions of the preliminary plan approval granted pursuant to Town Council Resolution No. 15, Series of 2008, shall be applicable with the exception that the Preliminary Plan approval shall now expire on April 9, 2010, unless a complete Final Plan application is submitted to the Town prior to the expiration date.

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

b. The Applicants shall pay any outstanding balance on their land use review account from the Preliminary Plan review and pay an additional \$500 to maintain a \$500 credit in the Flying Fish/Pokorny land use review account before December 9, 2009, pursuant to the Town's land use fee policies.

c. Pursuant to § 16-65(b)(2), Town Code, this approval shall not form the basis for any actionable reliance for the Applicants and shall not create any obligation for the P&Z or Town Council to provide later approvals on the property.

5. The Basalt Town Council considered the application at a public meeting on December 8, 2009. Throughout the meeting, 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 described herein to be consistent with the applicable provisions of the Town Code.

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

The Basalt Town Council incorporates the above recitals, all exhibits as references, 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 §§ 16-63(b) for the purposes of plan approval:

2. The PUD Plan conforms with the provisions of Article 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.

CONCLUSIONS

1. Based on the evidence, testimony, exhibits, and comments from the public, Applicant and Town Staff, the Basalt Town Council hereby amends Subsection No.5 in the Conclusion Section of Resolution No. 15, Series of 2008, to read as follows:

“The approval granted hereby shall be valid for one year from the date of the vote hereon and shall be void if complete Final Plan Submittals are not submitted to the Town by that date, or if an extension of the Preliminary Plan approval is not granted by the Planning and Zoning Commission prior to one year from the date of the vote.”

2. All provisions of the preliminary plan approval granted pursuant to Town Council Resolution No. 15, Series of 2008, shall be applicable with the exception that the Preliminary Plan approval for the Flying Fish and Pokorny Development Applications may be extended by the Planning and Zoning Commission pursuant to the procedures established in Town Code Section 16-67, *Development Time Limits*.

3. Pursuant to § 16-65(c)(6), 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 on the property.

4. All of the conditions of the Preliminary Plan approval extension granted by the Planning and Zoning Commission on December 1, 2009 shall be applicable.

READ AND ADOPTED by a vote of 5 to 0 on December 8, 2009.

TOWN OF BASALT, COLORADO

By: Leroy Duroux
Leroy Duroux, Mayor

ATTEST:

By: Pam Schilling
Pam Schilling, Clerk

Council Res 15- FlyingFish_PokornyExtension

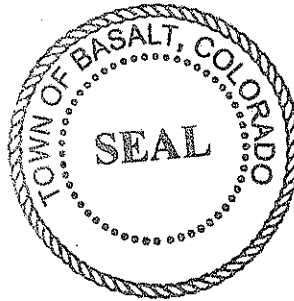


EXHIBIT A

PROPERTY DESCRIPTION

Flying Fish Property

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°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 B

PROPERTY DESCRIPTION

Pokorny Property

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