

RESOLUTION OF THE TOWN COUNCIL OF BASALT, COLORADO, APPROVING A PRE-DEVELOPMENT AGREEMENT WITH THE ROARING FORK CLUB, LLC. REGARDING THE ARBANNEY/KITTLE ADDITION TO THE ROARING FORK CLUB

**Town of Basalt, Colorado
Resolution No. 67
Series of 2014**

RECITALS

Whereas, the Town of Basalt approved a Subdivision and PUD Sketch Plan Application for the Arbaney/Kittle Addition to the Roaring Fork Club and an amendment thereto in 2012. The Applicant is now requesting to amend the sketch plan approvals to move the existing golf course maintenance facility to the northwest area of the Arbaney/Kittle Sketch Plan site.

Whereas, the Town is willing to look at changes to the Arbaney/Kittle land use approvals.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO:

Section 1. The Town Council approves a Pre-Development Agreement with the Roaring Fork Club, LLC. related to the Arbaney/Kittle Addition to the Roaring Fork Club Development Application.

Section 2. The Town Council directs Staff to prepare a schedule that outlines the process of converting the attached Pre-Development Agreement into a Final Development Agreement.

RESOLUTION NO. 67, SERIES OF 2014, IS HEREBY ADOPTED by a vote of 7 to 0, this 18th day of November, 2014.

TOWN OF BASALT, COLORADO

ATTEST:

by

Jacque R. Whitsitt, Mayor

Pamela K Schilling, Town Clerk



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

PREDEVELOPMENT AGREEMENT
Town of Basalt and Roaring Fork Club for Arbaney/Kittle Addition

THIS PREDEVELOPMENT AGREEMENT (this "Agreement") is entered into as of the ___th day of _____ 2014 (the "Effective Date"), between the Town of Basalt, Colorado, a Town of the State of Colorado (the "Town"), and _____, (the "Developer") (the Town and Developer are hereby collectively referred to as the "Parties").

RECITALS

- A. The Parties desire to enter into this Predevelopment Agreement in order to set forth matters that need to be included in any Final Development Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Town and the Developer agree as follows:

1. **DEVELOPER OF RECORD.** The Town acknowledges that there are risks and costs of preliminary planning activities and other requirements associated with the preparation for a project plan for the Town and the Developer. The Town acknowledges that Roaring Fork Club LLC. is the Developer of Record for the project described in the application.
2. **BASIC TERMS OF FINAL DEVELOPMENT AGREEMENT.** The Parties agree that a Final Development Agreement, satisfactory to both Parties in their sole absolute discretion, is required to proceed with development of the final amended project described in the application. The specific terms of such Final Development Agreement must be negotiated between the Parties. It is presently believed that such terms must necessarily address, at a minimum, the following matters, to-wit:
 - A. The Developer is proposing the Arbaney/Kittle Sketch Plan Application ("Application") and the Developer has permission from the owners of property included in the Application to seek the necessary development approvals. The Property is generally bordered by Highway 82 on the south side and the current Roaring Fork Club on the east, and the Meyer Ranch LLC. Colorado Tree Ranch Property to the north and the west.

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- B. The Developer received Sketch Plan Approval for the Arbaney/Kittle Addition to the Roaring Fork Club in 2008. Subsequently, the Developer received approval for several amendments to the 2008 sketch plan approval, with the most recent amendment occurring in 2012. The Developer is interested in further changes to its 2012 sketch plan approvals and requests sketch plan amendments their development program. The Developer has also requested an extension on the 2012 sketch plan approvals.
- C. The Parties shall agree on a schedule by which the development project will be undertaken and completed.
- D. The Parties shall agree as to how any necessary zoning changes and Town planning impacts will be addressed. Nothing contained within this Agreement, nor shall any future agreement be deemed to bind the Town, acting in its governmental capacity, to make any such zoning changes.
- E. The Parties shall agree on the plans and specifications of the infrastructure that will serve the development.
- F. The Final Development Agreement shall also address any other matters that the Parties deem appropriate, such as affordable housing mitigation.

3. OBLIGATION OF THE PARTIES TO PROCEED.

The obligations of the Parties to proceed beyond this Preliminary Development Agreement are dependent upon the Parties entering into a Final Development Agreement. Nothing contained herein shall (i) obligate the Town to create or approve the Development (ii) obligate the Town to create or approve an amended development plan for the Project Area, (iii) obligate either party to enter into a Final Development Agreement, or (iv) obligate either party to enter into property exchanges or other agreements anticipated by the Developer's request.

4. MISCELLANEOUS.

- A. Financial liability. The Town shall not be liable for any expenses or private debt associated with or incurred by the development or marketing of, or future management of the facility(ies).
- B. Financial Investigation Costs. The Developer agrees to reimburse the Town for any financial analysis of the Development Project deemed advisable by the Town Manager. In the event that unforeseen complications occur or additional scope increases the costs of determining the financial impacts on the Town, the Town

- will notify the Applicant in writing prior to proceeding with further financial impact evaluation beyond \$10,000.
- C. Assignability. Neither party shall assign this Agreement without the written consent of the other party.
 - D. Amendments. This Agreement may be supplemented or amended only by written instrument executed by the Parties affected by such supplement or amendment.
 - E. Applicable Law. The interpretation, enforcement or any other matters relative to this Agreement shall be construed and determined in accordance with the laws of the State of Colorado. The Parties agree that the sole and exclusive jurisdiction and venue for any disputes arising hereunder shall be in any trial court located in Pitkin County, Colorado.
 - F. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon the Parties.
 - G. Non-liability of Town Officials and Employees. No member of the governing body, official, employee, or agent of the Town shall be personally liable to Developer, or any successor in the interest to Developer, pursuant to the provisions of this Agreement, nor for any default or breach of the Agreement by the Town.
 - H. Not A Partnership. The provisions of the Agreement are not intended to create, nor shall they in any way be interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the Parties.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

Town of Basalt, Colorado

By: _____

Jacque R. Whitsitt, Mayor

Developer

By: _____

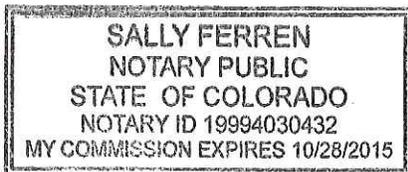
Karen Baxter, General Manager
Roaring Fork Club

STATE OF Colorado)
) ss.
COUNTY OF Eagle)

I, Sally Ferren, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT Jacque R. Whitsitt, personally known to me to be the same person whose name is subscribed to the foregoing instrument as the Mayor of the Town of Basalt, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

Given under my hand and notarial seal this 18 day of Nov., 2014.

My Commission Expires: 10-28-2015



Sally Ferren
Notary Public

STATE OF Colorado)
) ss.
COUNTY OF Eagle)

I, _____, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT _____, _____, personally known to me to be the same person whose name is subscribed to the foregoing instrument as the _____, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

Given under my hand and notarial seal this ___ day of _____, 2014.

My Commission Expires:

Notary Public