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**Town of Basalt, Colorado  
Ordinance No. 12  
Series of 2012**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO, RESCINDING THE DEVELOPMENT APPROVALS FOR THE POKORNY PLANNED UNIT DEVELOPMENT GRANTED PURSUANT TO ORDINANCE NO. 5, SERIES OF 2011, FOR THE PROPERTY LOCATED AT 258 ALEXANDER LANE IN THE TOWN OF BASALT AND PROVIDING AUTHORITY TO THE TECHNICAL REVIEW COMMITTEE TO FURTHER EXTEND THE RECORDING DEADLINE FOR THE FLYING FISH AND POKORNY PUD APPROVAL DOCUMENTS**

**RECITALS**

A. The Town of Basalt ("Town"), acting by and through its Town Council ("Town Council"), has the power to amend or rescind the development approvals for the Flying Fish and Pokorny PUDs approved pursuant to Ordinance No. 5, Series of 2011 recorded as Reception No. 580113 in the Pitkin County records and recorded as Reception No. 201109519 in the Eagle County records.

B. Ordinance No. 5, Series of 2011, approved the development of nine (9) dwelling units and approximately 1,100 square feet of commercial space on the Flying Fish Property at 106 Cottonwood Drive as more fully described in Exhibit A and twenty-six (26) dwelling units on the Pokorny Property as more fully described in Exhibit B.

C. Alexander Street Holdings LLC, ("Applicant") who owns all of the property constituting the Pokorny Property, have in conjunction with Mary Elizabeth Wolfer, a potential purchaser of the Pokorny Property, requested that the approvals granted to the Pokorny Property in Ordinance No. 5, Series of 2011 be rescinded in their entirety and the zoning of the property returned to the zoning that existed prior to the adoption of Ordinance No. 5, Series of 2011 if Ms. Wolfer purchases the Pokorny Property.

D. Staff recommended that the Town's Technical Review Committee also be given the authority to further extend the recording deadline for the approval documents on the Flying Fish PUD and Pokorny PUDs.

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

**RECEPTION#: 592281, 09/17/2012 at  
11:57:58 AM,  
1 OF 6, R \$36.00 Doc Code ORDINANCE  
Janice K. Vos Caudill, Pitkin County, CO**

E. At a public meeting held on July 10, 2012 the Town Council considered the request to rescind the Pokorny approvals granted in Ordinance No. 5, Series of 2012 on first reading and scheduled a public hearing and second reading for this ordinance for July 24, 2012, for a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

F. At a public hearing and second reading on July 24, 2012, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicants and members of the public.

G. The Town Council finds and determines the request to rescind the Pokorny approvals contained herein is reasonable and consistent with the applicable provisions of the Town Code. Further, the Town Council finds and determines the request 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 above findings.

B. CONCLUSIONS.

1. The development approvals and vested property rights granted in Town of Basalt Ordinance No. 5, Series of 2012, for the Pokorny Property at 258 Alexander Lane and Flying Fish Property at 106 Cottonwood Drive are revised as follows:

a. The Pokorny development approvals and vested rights granted pursuant to Ordinance No. 5, Series of 2011, shall become null and void concurrently with the transfer of ownership of the Pokorny Property to Mary Elizabeth Wolfer.

b. Upon the effective date of the rescission noted above, the zoning in place on the Pokorny Property prior to the adoption of Ordinance No. 5, Series of 2011 shall apply.

c. If the transfer of the Pokorny Property under contract by Mary Elizabeth Wolfer does not close on July 31<sup>st</sup>, Condition No. 2 below applies.

d. If the Pokorny Property approvals are rescinded as provided above, the owner of the Flying Fish Property shall be required to amend their approval to the satisfaction of the Town prior to developing the Flying Fish site that the replacement housing requirements for the Flying Fish are satisfied through another means other than providing replacement housing on the Pokorny Property.

2. The Town Council hereby delegates authority to further extend the recording deadline for the Flying Fish approval documents to the Town's Technical Review Committee for a period of up to year from the current expiration date of July 31, 2012 and for the Pokorny Property approval documents for the same time period should the Pokorny Property not transfer ownership to Ms. Wolfer by July 31, 2012, which is the scheduled closing date.

3. The approvals contained herein and the conditions contained herein shall be binding on and inure to the benefit of the heirs, successors and assigns of the Applicants.

4. The Ordinance, after fully being executed and after appropriate publication, shall be recorded in the Office of the Clerk and Recorder of Eagle County and the Office of the Clerk and Recorder of Pitkin County.

5. 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 July 24, 2012, by a vote of 7 to 0, on July 10, 2012.

READ ON SECOND READING AND ADOPTED, by a vote of 6 to 0 on July 24, 2012 at a public hearing.



TOWN OF BASALT, COLORADO

By: \_\_\_\_\_

Jacque R. Whitsitt, Mayor

ATTEST:

  
Pamela Schilling, Town Clerk - Deputy  
SALLY FERREN

Ord12\_FishPokornyAmendApprovals

First Publication: Thursday, July 19, 2012  
Final Publication: Thursday, August 2, 2012  
Effective Date: Thursday, August 16, 2012

## Exhibit A

### 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  $86^{\circ}13'42''$  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; SAID PARCEL CONTAINING 1.48 ACRES, MORE OR LESS.

COUNTY OF EAGLE

**Exhibit B**

**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