

**ORDINANCE NO. 9
(SERIES OF 1999)**

**AN ORDINANCE OF THE CITY COUNCIL, OF THE CITY OF ASPEN,
COLORADO, APPROVING THE NOLAN LOT SPLIT, LOTS K, L, M, & N, BLOCK
56, CITY AND TOWNSITE OF ASPEN, PITKIN COUNTY, COLORADO.
Parcel # 2735-124-21-005**

WHEREAS, the Community Development Department received an application from William C. Nolan, owner, for a Lot Split of a 12,000 square foot parcel of land, 308 North First Street, described as Lots K, L, M, & N, Block 56, City and Townsite of Aspen, into two 6,000 square foot lots in conformance with the Medium Density (R-6) Zone District; and,

WHEREAS, the City Council may approve Lot Split applications and exempt the development from the scoring and competition procedures of the Growth Management Quota System in conformance with Sections 26.88.030 and 26.100.050 after taking and considering a recommendation from the Community Development Director and taking and considering public testimony at a duly noticed public hearing; and,

WHEREAS, the Community Development Director received recommendations from the City Engineer, the City Zoning Officer, the Aspen/Pitkin County Housing Authority, and the Aspen Consolidated Sanitation District, reviewed the proposal, and recommended approval with conditions; and

WHEREAS, the Aspen City Council has reviewed and considered the development proposal under the applicable provisions of the Municipal Code, as identified in Sections 26.28, 26.52, and 26.88, has reviewed and considered the recommendations made by the Community Development Director, and has taken and considered public comment at a public hearing; and,

WHEREAS, the City Council finds that the development proposal meets or exceeds all applicable development standards and that the approval of the development proposal, with conditions, is consistent with the goals and elements of the Aspen Area Community Plan; and

WHEREAS, the City Council finds that this Ordinance furthers and is necessary for public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO as follows:

Section 1:

The Nolan Lot Split is approved, subject to the following conditions:

1. A Lot Split Plat, meeting the requirements of Section 26.88.040(D)(2)(a)(1), shall be recorded within 180 days of the adoption date of this Ordinance. The plat shall indicate all easements of record, property corner monuments, existing structural non-conformities, existing trees including those in the alleyway, a five-foot-wide pedestrian usable space located 7.5 feet from the property line with a 5 foot buffer for snow storage, and note encroachments on public rights-of-way and the respective encroachment licenses.
2. The lot split plat shall exhibit two lots in conformance with the R-6 Zone District regulations and shall include the following requirements of this Lot Split as plat notes:
 - Upon development of Lot #1 or redevelopment of Lot #2, both lots, and the associated structures, shall comply with the R-6 Zone District provisions with respect to the newly created lot boundaries and setbacks. Existing non-conforming accessory structures may continue to the extent that the new lot boundaries do not increase the element's non-conformity.
 - The developer of each Lot shall seek an exemption from GMQS pursuant to Section 26.100.050(A)(2), as amended from time to time.
3. A tree removal permit from the City Parks Department shall be required for the removal or relocation of trees as per Section 13.20.020 of the Code, as amended. There shall be no excavation or storage of fill materials within the tree driplines.
4. Prior to applying for a building permit, the applicant shall complete a tap permit and shall pay all connection charges due to the Aspen Consolidated Sanitation District.
5. A building permit application for each Lot shall contain a drainage report and a drainage plan, including an erosion control plan, prepared by a Colorado licensed Civil Engineer which maintains sediment and debris on-site during and after construction. If a ground recharge system is required, a soil percolation report will be required to correctly size the facility. A 2 year storm frequency should be used in designing any drainage improvements.
6. A building permit application for each Lot shall contain a recorded agreement to construct sidewalk, curb, and gutter, and a recorded agreement to join any future improvement districts for the purpose of constructing improvements which benefit the property under an assessment formula.
7. All material representations made by the applicant in the application and during public meetings with the Aspen City Council shall be adhered to and considered conditions of approval, unless otherwise amended by an entity with the authority to do so

Section 2:

All material representations and commitments made by the developer pursuant to the development proposal approvals as herein awarded, whether in public hearing or documentation presented before the Aspen City Council, are hereby incorporated in such plan development approvals and the same shall be complied with as if fully set forth herein, unless amended by other specific conditions.

Section 3:

This Ordinance shall not effect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances

repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.

Section 4:

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

Section 5:

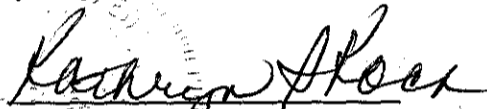
That the City Clerk is directed, upon the adoption of this Ordinance, to record a copy of this Ordinance in the office of the Pitkin County Clerk and Recorder.

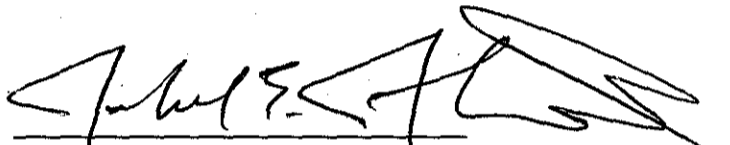
Section 6:

A public hearing on the Ordinance was held on the 12th day of April, 1999 at 5:00 in the City Council Chambers, Aspen City Hall, Aspen Colorado, fifteen (15) days prior to which hearing a public notice of the same was published in a newspaper of general circulation within the City of Aspen.

INTRODUCED, READ AND ORDERED PUBLISHED as provided by law, by the City Council of the City of Aspen on the 22nd day of March, 1999.

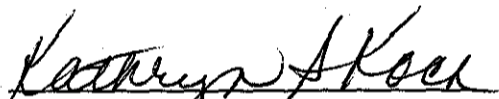
Attest:

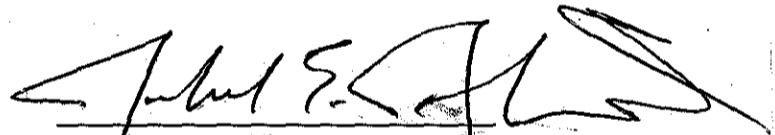

Kathryn S. Koch, City Clerk


John Bennett, Mayor

FINALLY, adopted, passed and approved this 26 day of April, 1999.

Attest:


Kathryn S. Koch, City Clerk


John Bennett, Mayor

Approved as to form:



City Attorney

Exhibit A
Nolan Lot Split

City Council shall exempt a Lot Split from the provisions of Subdivision if the following conditions are met:

- A. The land is not located in a subdivision approved by either the Pitkin County Board of County Commissioners or the City Council, or the land is described as a metes and bounds parcel which has not been subdivided after the adoption of subdivision regulations by the City of Aspen on March 24, 1969.

Staff Finding:

The parcel consists of four original townsite lots and was not created by a Subdivision.

- B. No more than two (2) lots are created by the lot split, both lots conform to the requirements of the underlying zone district. Any lot for which development is proposed will mitigate for affordable housing pursuant to Section 26.100.050(A)(2)(c).

Staff Finding:

Both proposed Lots conform to the R-6 Zone District. The existing house may continue to exist on the newly created lot line until such time as either lot is developed. At such time, the existing house shall conform to the new setback requirements established by the new lot line and the FAR requirements of the reduced lot size. This shall be noted on the final plat.

Both Lots are required to mitigate for affordable housing pursuant to Section 26.100.050(A)(2)(c), as amended. This has been included as a condition of approval and shall be noted on the final plat.

- C. The lot under consideration, or any part thereof, was not previously the subject of a subdivision exemption under the provisions of this chapter or a "lot split" exemption pursuant to Section 26.100.050 (C)(3)(a); and

Staff Finding:

This property has not previously received a Subdivision Exemption.

- D. A subdivision plat which meets the terms of this chapter, and conforms to the requirements of this title, is submitted and recorded in the office of the Pitkin County clerk and recorder after approval, indicating that no further subdivision may be granted for these lots nor will additional units be built without receipt of applicable
-

approvals pursuant to this chapter and growth management allocation pursuant to Chapter 26.100.

Staff Finding:

A Lot Split Plat shall be recorded within 180 days of the adoption date of the Ordinance. This plat shall depict two Lots in conformance with the R-6 Zone District and shall include the following plat notes:

- Upon development of Lot #1 or redevelopment of Lot #2, both Lots, and the associated structures, shall comply with the R-6 Zone District provisions with respect to the newly created lot boundaries and setbacks. Existing non-conforming accessory structures may continue to the extent that the new lot boundaries do not increase the element's non-conformity.
- The developer of each lot shall seek an exemption from GMQS pursuant to Section 26.100.050(A)(2), as amended from time to time.

- E. Recordation. The subdivision exemption agreement and plat shall be recorded in the office of the Pitkin County clerk and recorder. Failure on the part of the applicant to record the plat within one hundred eighty (180) days following approval by the City Council shall render the plat invalid and reconsideration of the plat by the City Council will be required for a showing of good cause.

Staff Finding:

Staff has included this time requirement as a condition of approval.

- F. In the case where an existing single-family dwelling occupies a site which is eligible for a lot split, the dwelling need not be demolished prior to application for a lot split.

Staff Finding:

The existing house is not required to be demolished. Staff has included a condition requiring both lots to conform to the R-6 Zone District regulations at the time of actual development on either lot.

- G. Maximum potential buildout for the two (2) parcels created by a lot split shall not exceed three (3) units, which may be composed of a duplex and a single-family home.

Staff Finding:

Due to the lot area (density) requirements of the R-6 Zone District, the build-out potential for each 6,000 square foot lot is a single-family home.
