

**ORDINANCE NO. 02
(SERIES OF 2020)**

**AN ORDINANCE OF THE ASPEN CITY COUNCIL APPROVING THE VANDEMOER
HILL LOT SPLIT FOR PROPERTY COMMONLY DESCRIBED AS 949 WEST
SMUGGLER STREET, LEGALLY DESCRIBED IN EXHIBIT A; CITY OF ASPEN,
PITKIN COUNTY, COLORADO**

PARCEL ID #'s: 273512212001 and 273500

WHEREAS, the Community Development Department has received an application from 949 West Smuggler Street, LLC (Applicant), represented by Chris Bendon, BendonAdams, LLC, requesting a Minor Subdivision – Lot Split for property located at 949 West Smuggler Street (legally described in Exhibit A of this Ordinance) to create two (2) separate and distinct lots - Lot 1 and Lot 2; and,

WHEREAS, pursuant to Chapter 26.480.060.A and 26.480.040 of the Land Use Code, a Minor Subdivision – Lot Split shall be approved, approved with conditions, or denied by the City Council, after receiving a recommendation from the Community Development Director; and,

WHEREAS, upon initial review of the application and the applicable code standards, the Community Development Department recommended approval of the request; and,

WHEREAS, the Aspen City Council considered the Minor Subdivision request at 1st Reading on February 25th, 2020 and at 2nd Reading (duly noticed public hearing) on July 14th, 2020; and,

WHEREAS, the City Council has reviewed and considered the Minor Subdivision - Lot Split application proposal under the applicable provisions of the Municipal Code as identified herein, has reviewed and considered the recommendation from the Community Development Director, the applicable referral agencies, and has taken and considered public comment at a duly noticed public hearing; and,

WHEREAS, the City Council finds that the Minor Subdivision – Lot Split proposal meets the applicable land use standards; and,

WEREAS, the City Council further finds that the dedication of this portion of the Road as Right of Way from the Applicant to the City of Aspen for public use will establish its ongoing public use; and,

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

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF ASPEN,
COLORADO, THAT:**



Section 1: Minor Subdivision – Lot Split

Pursuant to the procedures and standards set forth in Title 26 of the Aspen Municipal Code, the Aspen City Council hereby approves the Minor Subdivision – Lot Split for property located 949 West Smuggler Street. The lot to the east containing the existing improvements is designated Lot 2. The newly created western lot is designated Lot 1. These designations shall be shown in the final plat.

Section 2: Future City Review Required

Prior to building permit submittal for any future development or redevelopment on Lots 1 or 2, further City of Aspen review, including but not limited to, Residential Design Standards Review is required.

Section 3: Zoning

At the time of this subdivision, portions of Lot 1 are zoned R-6 and R-30. Therefore, future development of Lot 1 is subject to the Split Zoning requirements of the Land Use Code Section 26.710.022 in place at such time as a development application is made. Any future development on Lot 2 is subject to the requirements of the R-6 zone district in place at such time an application is made.

Section 4: Development Restriction

To acknowledge the subject property's unusual site circumstances, a building restriction is placed on the portion of land zoned R-30, west of Power Plant Road that restricts all future development. This area of land shall be identified on the final subdivision plat and a note shall be placed on the plat acknowledging this restriction. A building envelope, pursuant to Land Use Code 26.575.110 and described on the final plat, shall be placed on that portion of the newly created Lot 1 zoned R-6 and located east of the Power Plant Road to identify that area of Lot 1 permitted for future development in accordance with the requirements of this ordinance and applicable Zone District standards.

Section 5: Future Development and Floor Area

The development restriction on Lot 1 described in Section 4 of this ordinance does not reduce the gross lot area used for the purposes of Floor Area calculations. Such calculations shall be made in accordance with the requirements and calculation methods of the Land Use Code in place at the time a development application is made for Lot 1.

Section 6: Power Plant Road Right-of-Way and Easements – Dedication to the City of Aspen

The City Council hereby accepts for public use the dedication from the Applicant to the City of Aspen of Power Plant Road Right-of-Way at a width of 30-feet as it traverses the subject property. Additionally, City Council hereby accepts the dedication of a 16-foot wide utility and pedestrian easement on the west side of the Power Plant Road dedication area and a 10-foot utility easement on the east side of the Power Plant Road dedication area. These dedications shall be depicted and legally described in a note on the final subdivision plat and in accordance with Engineering Standards in place at the time of approval.

Section 7: Further Lot Split

Pursuant to Land Use Code Section 26.480.060.A.2, Lot 1 and Lot 2 shall not be further subdivided through the Minor Subdivision – Lot Split process.

Section 8: Lot Spanning Right-of-Way

Dedication of Power Plant Road Right-of-Way from the Applicant to the City of Aspen does not further subdivide Lot 1, now or in the future.

Section 9: Setbacks

The setbacks for Lot 1 are as follows: south – 15 feet, all other lot lines – 10 feet, and the combined side yard setback does not apply. The Lot 2 setbacks are subject to the zoning requirements for R-6 in place at such time as a development or redevelopment application is submitted.

Section 10: Non-conforming sheds

Structures located on Lot 2 at the time of this lot split plat filing, consisting of a home and two wooden shed structures, and which may conflict with zoning setback requirements, are subject to the Non-Conformities regulations in Land Use Code Section 26.312.

Section 11: Utility Easements

The portion of the utility easement dedicated on the south side of Lot 2, shall be limited to five (5) feet in width.

Section 12: Final Plat

Within 60 days of final approval of the Vandemoer Hill Lot Split, the Applicant shall submit for review, approval, and recordation a final plat depicting the approved subdivision.

Section 13:

This ordinance shall not affect 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 14:

If any section, subsection, sentence, clause, phrase, or portion of this resolution 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.

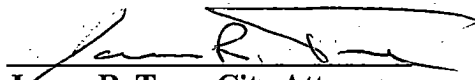
Section 15:


A duly noticed public hearing on this Ordinance was held on the 14th day of July, 2020 at 5:00 PM in the City Council Chambers, Aspen City Hall, Aspen, Colorado.

FINALLY, adopted, passed, and approved by a _____ to _____ (____ - ____) vote on this 14th day of July, 2020.

Approved as to form:

Approved as to content:


James R. True, City Attorney


Torre, Mayor

Attest:

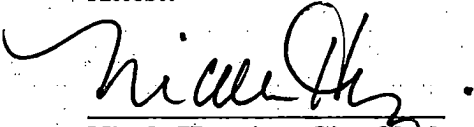

Nicole Henning, City Clerk

Exhibit A
Legal Description of subject property (un-subdivided)

PARCEL 1

LOTS A, B, C, D, E, F, G, H AND I, BLOCK 3, CITY AND TOWNSITE OF ASPEN;

PARCEL 2

THAT CERTAIN PARCEL OF LAND, TOGETHER WITH ALL RIGHTS, PRIVILEGES AND EASEMENTS CONTAINED IN THE DEED HEREIN-AFTER DESCRIBED, CONVEYED TO H.R. VANDEMOER BY VIRGINIA S. CHAMBERLAIN BY DEED DATED APRIL 20, 1959, DULY RECORDED JUNE 2, 1959 AS RECEPTION NO. 108073 IN BOOK 187 AT PAGE 389 OF THE RECORDS IN THE OFFICE OF THE CLERK OF THE RECORDED OF PITKIN COUNTY, COLORADO.

SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS (FROM RECEPTION NO. 108073):

THAT CERTAIN PARCEL OF LAND IN SECTION 12, TOWNSHIP 10 SOUTH, RANGE 85 WEST, 6TH P.M., DESCRIBED IN DOCUMENT NO. 96608 IN BOOK 170 AT PAGE 565 OF THE RECORDS FOR PITKIN COUNTY LYING NORTHERLY OF THE CENTERLINE OF THE ALLEY IN BLOCK 3 OF THE CITY AND TOWNSITE OF ASPEN PROJECTED WESTERLY TO ITS INTERSECTION WITH THE WESTERLY LINE OF SAID TRACT OF LAND DESCRIBED IN SAID DOCUMENT NO. 96608 OF THAT PARCEL OF LAND CONVEYED BY MICHAEL MAROLT TO H.R. VANDEMOER AND ARTHUR PFISTER BY QUIT CLAIM DEED DATED JULY 14, 1949.

INCLUDING ALL RIGHTS AND PRIVILEGES TO USE THE ROADWAY AS NOW CONSTRUCTED AND IN USE FROM SMUGGLER STREET ACROSS SAID ABOVE DESCRIBED PROPERTY TO THAT PORTION OF LAND DESCRIBED IN SAID DOCUMENT NO. 96608 LYING SOUTHERLY OF THE CENTERLINE OF THE ALLEY IN SAID BLOCK 3 PROJECTED WESTERLY, IT BEING THE INTENTION OF THE GRANTOR TO RELEASE AND QUIT-CLAIM FOREVER HER INTEREST IN SAID EASEMENT USED FOR INGRESS AND EGRESS TO SMUGGLER STREET.

LESS AND EXCEPT ALL OF THAT PROPERTY DESCRIBED IN THAT DOCUMENT RECORDED JUNE 2, 1959 IN BOOK 187 AT PAGE 388, AS RECEPTION NO. 108072.

**COUNTY OF PITKIN.
STATE OF COLORADO.**