

**ORDINANCE NO. 002
(SERIES OF 2020)**

**AN ORDINANCE OF THE ASPEN CITY COUNCIL APPROVING A MINOR
SUBDIVISION – 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 March 24th, 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 ownership of Power Plant Road as it traverses the subject property is uncertain, and 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 indefinitely establish its public ownership and its future 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.

Section 2: Future City Review Required

Prior to building permit submittal for any future development, further City of Aspen review, including but not limited to, Residential Design Standards (RDS) Review is required.

Section 3: 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.

Section 4: Power Plant Road ROW – Dedication to the City of Aspen

The City Council hereby accepts the dedication of Power Plant Road Right of Way as it traverses the subject property from the Applicant to the City of Aspen for public use. This dedication shall be visually identified on the final plat and legally described in a note on the final subdivision plat.

Section 5: 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 6:

Dedication of Power Plant Road ROW from the Applicant to the City of Aspen does not further subdivide Lot 2, now or in the future.

Section 7: Final Plat

Within 60 days of final approval of the 949 West Smuggler Street Minor Subdivision – Lot Split, the Applicant shall submit for review, approval, and recordation a final plat depicting the approved subdivision.

Section 8: Setbacks

Front, side, and rear lots lines are established for both Lot 1 and Lot 2 in Exhibit B of this ordinance.

Section 9: Non-conforming sheds

Two (2) sheds exist on Lot 1 and reside within the rear yard setback for the Lot. These sheds are legally established non-conforming structures and may remain in their present location.

Section 10:

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 11:

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 12:

A duly noticed public hearing on this Ordinance was held on the 24th day of March, 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 24th day of March, 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 IT'S 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.

Exhibit B
Front, Side, and Rear lot line determination

