

**ORDINANCE NO. 015
(SERIES OF 2021)**

AN ORDINANCE OF THE CITY OF ASPEN CITY COUNCIL APPROVING THE ESTABLISHMENT OF TRANSFERABLE DEVELOPMENT RIGHTS FOR THE PROPERTY LOCATED AT 925 KING STREET, CITY AND TOWNSITE OF ASPEN, PARCEL 2 OF THE BOUNDARY AGREEMENT PLAT RECORDED APRIL 29, 1983 IN PLAT BOOK 13 AT PAGE 35 AS RECEPTION NO. 240935, COUNTY OF PITKIN, STATE OF COLORADO

PARCEL ID: 2737-074-00-022

WHEREAS, the Community Development Department received an application from the applicants, King Street Com LLC, c/o John Belkin, represented by BendonAdams LLC, for the property located at 925 King Street, City and Townsite of Aspen, Colorado, requesting approval for the following:

- Transferable Development Rights (TDR) - Section 26.535 for the establishment of up to two (2) TDRs, representing the remaining residential development allowed on this historic parcel, and;
- Minor Subdivision – Lot Split - Section 26.480.060 for the subdivision of a lot for the purpose of creating one additional development parcel.

WHEREAS, the subject property is zoned Moderate Density Residential (R-15A); and,

WHEREAS, the Community Development Department reviewed the proposed application, found that the review standards were met, and recommended in favor of establishing two (2) TDRs for this site; and

WHEREAS, the Applicant has requested a Lot Split review by the City Council and approval to divide the current 36,046 square foot lot into two lots; allocating 21,045 square feet of gross lot area to Lot 2A and allocating 15,001 gross square feet to Lot 2B; and,

WHEREAS, the Historic Preservation Commission reviewed the application on January 27, 2021, during which the recommendations of the Community Development Department were heard by the Historic Preservation Commission (HPC), and the Commission recommended in favor of the establishment of up to two (2) TDRs through Resolution #002, Series of 2021, by a vote of three to zero (3 – 0).

WHEREAS, City Council has reviewed and considered the development proposal under the applicable provisions of the Municipal Code as identified herein, has reviewed and considered the recommendations of the Community Development Director and the Historic Preservation Commission; and,

WHEREAS, on June 8, 2021, the Aspen City Council approved Ordinance No. 15, Series of 2021, on First Reading; and,

WHEREAS, during a duly noticed public hearing on June 22, 2021, the Aspen City Council approved Ordinance No. 15, Series of 2021, on Second Reading by a ____ to ____ (__ – __) vote, approving the establishment of up to two (2) TDRs; and,

WHEREAS, during a duly noticed public hearing on June 22, 2021, the City Council opened the hearing, took public testimony, considered pertinent recommendations from the Community Development Director, and referral agencies of the City of Aspen and adopted Ordinance No. 15, Series of 2021, approving Lot Split, which would allow the division 925 King Street, a 36,046 square foot lot into two lots, allocating 21,045 square feet of lot area to Lot 2A and allocating 15,001 square feet of lot area to Lot 2B; and,

WHEREAS, City Council finds that the development proposal meets or exceeds all the applicable development standards; 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 ORDAINED BY THE CITY OF ASPEN CITY COUNCIL AS FOLLOWS:

Section 1:

Pursuant to the procedures and standards set forth in Title 26 of the Aspen Municipal Code, City Council hereby approves the Lot Split request to divide the 36,046 square foot lot into two lots; allocating 21,045 square feet to Lot 2A and allocating 15,001 square feet to Lot 2B; and,

Section 2: Plat

The Applicant shall record a lot split plat that meets the requirements of Land Use Code Section 26.480, *Subdivision*, within 180 days of approval. The existing six structures of non-historic significance as identified by HPC shall be demolished to accommodate the newly created lot boundaries. The two historically significant structures on Lot 2B shall remain. Upon demolition of non-historically significant structures, as defined in Section 26.104.100, Definitions, all non-historic structures on Lot 2A and Lot 2B shall comply with the R-15A Zone District provisions with respect to the newly created lot boundaries and setbacks.

Section 3: Subdivision

No further subdivision may be granted for the newly created lots. No additional units shall be constructed without the required land use approvals and growth management allocations.

Section 4: Engineering

The natural drainage pattern of parcel 2B is onto parcel 2A, and into the ditch. Drainage law prohibits runoff from crossing a property line above the historic rate. The property may desire to provide drainage easements to accommodate drainage from the subdivision. Alternatively, the Parcel 2B property can provide full detention at building permit

Verify there are no encroachments that would warrant an encroachment easement on the final plat.

Access easement per Plat Book 13 Page 35 and License per NO. 498801 is called out as revocable property use license. New development will need to access Parcel 2A from the ROW or demonstrate the neighbors continue to approve of this access easement.

Section 5: Parks

The Parks Department will require separate landscape and tree protection reviews for each new lot upon the request for building permit. Staff will determine if an approved tree permit will be required prior to demolition or significant property changes. Tree removal mitigation will be handled through cash-in-lieu payment or by on-site plantings, such as street trees. Planting in the public right-of-way will be subject to landscaping in the right-of-way requirements. Improvements to the right-of-way should include new grass and irrigation. The applicant shall work with the Parks Department to design an appropriate trench box for any new tree plantings. Plans for tree plantings shall be completed and conceptually approved prior to building permit submittal.

Section 6: Water/Utilities

Upon future development of either lot, utility design shall be incorporated into plans that will address individual services and meters for each lot.

Section 7: Existing Floor Area Allocation

The floor area calculations for the existing non-historic single-family and duplex homes at 936 King Street, 905 King Street, 932 Queen Street Unit A and 932 Queen Street Unit B shall be provided with the demolition permit in accordance with Section 26.575.020, Calculations and Measurements. Floor area credit applies to three forms of mitigation. Credit for the existing floor area shall be allocated between the two lots evenly; with the exception of floor area credit as it is applied to School Land Dedication. 100% of the floor area applied to School Land Dedication fees shall be applied to Lot 1. This allocation, notated by “fee type”, is shown in Table 1.

Table 1. Existing Floor Area Credit Allocation Table

Fee Type	Lot 2A	Lot 2B Historic
School Land Dedication	100%	0%
Parks	50%	50%
Affordable Housing	50%	50%

If the floor area calculations are not provided prior to demolition, the applicant forfeits the right to any floor area credit. This condition may be amended by the Community Development Director.

Section 8: Vested Property Rights

The development approvals granted herein shall constitute a site-specific development plan vested for a period of three (3) years from the date of issuance of a development order.

No later than fourteen (14) days following final approval of all requisite reviews necessary to obtain a development order as set forth in this ordinance, the City Clerk shall cause to be published in a newspaper of general circulation within the jurisdictional boundaries of the City of Aspen, a notice advising the general public of the approval of a site specific development plan and creation of a vested property right pursuant to this Title. Such notice shall be substantially in the following form: Notice is hereby given to the general public of the approval of a site specific development plan, and the creation of a vested property right, pursuant to the Land Use Code of the City of Aspen and Title 24, Article 68, Colorado Revised Statutes, pertaining to the following described property: 925 King Street Historic Lot Split, City and Townsite of Aspen, Parcel 2 of the Boundary Agreement Plat Recorded April 29, 1983 in Plat Book 13 at Page 35 as Reception No. 240935, County of Pitkin, State of Colorado by Ordinance No. 15, Series of 2021, of the Aspen City Council.

Section 9: Transferable Development Rights (TDR)

Pursuant to the findings set forth above, the City Council does hereby authorize the creation of up to two (2) TDRs from the 925 King Street with the following conditions:

1. Commencing with the severing of the first TDR from the property, the maximum floor area for the lot 2B shall be 3,380 square feet minus 250 square feet for each TDR Certificate issued.
2. Upon satisfaction of all requirements, the City and the applicant shall establish a date on which the respective Historic TDR Certificates shall be validated and issued by the City and a deed restriction on the property shall be accepted by the City and filed with the Pitkin County Clerk and Recorder. The property owner may decide when and if, as warranted by the TDR market, the development rights will be converted into certificates and sold.
3. On the mutually agreed upon date, the Mayor of the City of Aspen shall execute and deliver the applicable number of Historic TDR Certificates on the property owner and the property owner shall execute and deliver a deed restriction lessening the available development right of the Sending Site by 250 square feet per TDR together with the appropriate fee for recording the deed restriction with the Pitkin County Clerk and Recorder's Office.
4. All calculations shall be verified by The City prior to the issuance of Historic TDR Certificates.

Section 10: Existing Litigation

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: Severability

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 22nd day of June, 2021 at 5:00 PM in the City Council Chambers, Aspen City Hall, Aspen, Colorado.

INTRODUCED, READ AND ORDERED PUBLISHED as provided by law, by the City Council of the City of Aspen on the 22nd day of June, 2021.

Attest:

Approved as to content:

Nicole Henning, City Clerk

Torre, Mayor

FINALLY, adopted, passed and approved this ____ day of _____, 2021.

Approved as to form:

Approved as to content:

James R. True, City Attorney

Torre, Mayor

Attest:

Nicole Henning, City Clerk