

**Town of Basalt, Colorado
Ordinance No. 3
Series of 2009**

**ORDINANCE OF THE TOWN COUNCIL OF BASALT, COLORADO, APPROVING A
MINOR SUBDIVISION LOT LINE ADJUSTMENT FOR PARCEL 1, JENSEN
BOUNDARY LINE ADJUSTMENT PLAT, LOTS 4 & 5, BLOCK 1, TOWN OF
BASALT, AND THE HOMESTEAD CONDOMINIUMS, SUBMITTED BY EUGENIA
GRANT, DAVID BORKENHAGEN, MICHAELE DUNSDON, KIRK AND CINDY
BRINKS, AND THE HOMESTEAD CONDOMINIUMS, LOCATED AT 148, 154 AND
160 HOMESTEAD DRIVE (GRANT/BORKENHAGEN APPLICATION)**

RECITALS

A. The Town of Basalt ("Town"), acting by and through its Town Council ("Town Council"), has the power to grant Minor Subdivision approval for a lot line adjustment Application submitted by Eugenia Grant, David Borkenhagen, Michaelae Dunsdon, Kirk and Cindy Brinks and the Homestead Condominiums ("Applicants") for the property located at 148, 154, and 160 Homestead Drive. The Application requested approvals consistent with the terms of the Quiet Title Decree and Dismissal Order with Retained Jurisdiction in Case No. 04CV492 in Eagle County District Court. The property is further described in Exhibit "A" attached hereto (the "Property").

B. The Town of Basalt Technical Review Committee ("TRC") has considered whether formal public notice is required for this Minor Subdivision Lot Line Adjustment pursuant to Section 17-83 (a)(1) and (b)(2), Town Code, and has determined that the Town Council may consider the request at a public hearing without the requirement for formal public notice.

C. At a public meeting held on February 24, 2009, the Town Council considered the Application on first reading and continued and set a public hearing and second reading for this Ordinance for March 10, 2009 at a meeting beginning no earlier than 6:00 p.m. at Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

D. At a public hearing and second reading on March 10, 2009, the Town Council heard evidence and testimony by Town Staff and members of the public.

E. The Town Council finds and determines it is in the best interests of the Town to approve this Ordinance. The Town Council finds and determines this Ordinance is reasonable and consistent with the Town Code. Further, the Town Council finds and

determines this Ordinance 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 Basalt, Colorado, as follows:

A. FINDINGS

1. Based on the evidence, testimony, exhibits, and comments from the public, the Applicants and Town staff, the Town Council finds and determines in accordance with Section 17-83, Town Code, as follows:
 - a. The Town Council incorporates the above recitals, the representations of the Applicants, and all exhibits as findings and determinations, and conclusively makes all of the findings of fact, determinations and conditions contained herein.
 - b. The Town Council finds that the Applicants' requests are consistent with the applicable provisions of the Town Code, provided Applicants adheres to the conditions identified in this Ordinance.
 - c. The Application complies with Section 17-83, Town Code, because the proposal is relating to a lot line adjustment not involved in creating new residential units; and the proposal has been reviewed by the Technical Review Committee and is recommended for approval, provided Applicants adheres to the conditions hereof.

B. CONDITIONS

1. Based on the Application, testimony and comments from the public, Applicants and Town Staff, the Town Council hereby grants approval for a minor subdivision lot line adjustment as depicted in the Application, subject to the following conditions:
 - a. The Applicants shall comply with all material representations made by the Applicants in the Application and in hearings before the Town Council.
 - b. The Minor Subdivision Lot Line Adjustment Plat shall be prepared for recording with all necessary title, dedication language and signature blocks. The Mayor and Town Clerk are authorized to sign the Plat once it has been reviewed and approved by the Town Attorney. The Applicants shall comply with Section 17-87 of the Basalt Town Code for recording the Plat. The Town Planner

is permitted to grant an extension up to 6 months if sufficient progress has been made.

c. The Minor Subdivision Lot Line Adjustment Plat shall comply with the terms of the quiet Title Decree and Dismissal Order with Retained Jurisdiction in Case No. 04CV492, in Eagle County District Court. Only existing non-conforming conditions or such conditions as may result from said Court Decree are permitted pursuant to this Minor Subdivision Lot Line Adjustment approval.

d. The purpose of the Town's Approval is to reflect the Court action described in condition "c" above. Any future land use applications, amendments, changes in use, or modification to access on any of the affected lots shall be reviewed based on the then current Town Code provisions including any requirements for access permits.

C. MISCELLANEOUS

1. The approvals contained herein and the conditions contained herein shall be binding on and insure to the benefit of the heirs, successors and assigns of the Applicants.
2. The Ordinance, after fully being executed and after appropriate publication, shall be recorded in the Office of the Clerk and Recorder of Eagle County.
3. If any part, section, subsection, sentence, clause or phrase of the 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 March 10, 2009 by a vote of 7 to 0 on February 24, 2009.

READ ON SECOND READING AND ADOPTED by a vote of 7 to 0 on March 10, 2009.

TOWN OF BASALT, COLORADO

By: _____
Leroy Duroux, Mayor

ATTEST:

By: _____
Pamela K. Schilling, Town Clerk

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10-24-207

First Publication: Thursday, March 5, 2009
Final Publication: Thursday, March 19, 2009
Effective Date: Thursday, April 2, 2009

EXHIBIT A
LEGAL DESCRIPTIONS

Eugenia L. Grant LLP

Parcel 1, Jensen Boundary Lot Adjustment as shown on the Jensen Boundary Lot Adjustment Plat recorded with the Eagle County Clerk and Recorder as Reception No. 496539.

David Borkenhagen and Michael Dunsdon

A part of Lot 5 in Block 1 in the Townsite of Aspen Junction (now known as the Town of Basalt) described as Follows: Beginning at the Southwest corner of said Lot 5, Thence North 280 Feet: Thence East 12 Feet: Thence South 80 Feet: Thence East 38 Feet: Thence South 200 Feet to the point of beginning; and

Condominium Units A and C, Homestead Condominums, according to the Declaration for the Homestead Condominums recorded January 6, 1999 at Reception No. 682830 and the Condominium Map Recorded December 14, 1998 at Reception No. 679883, County of Eagle, State of Colorado.

Kirk and Cindy Brinks

Condominium B, Homestead Condominums According to the Declaration for the Homestead Condominums recorded January 6, 1999 at Reception No. 682830 and the Condominium Map Recorded December 14, 1998 at Reception No. 679883, County of Eagle, State of Colorado.

Homestead Condominums of Basalt, a Colorado Nonprofit Association

The Common Elements of the Homestead Condominums as per the Declaration of Homestead Condominums Recorded January 6, 1999 at Reception No. 679883, County of Eagle, State of Colorado.

