

AN ORDINANCE OF THE TOWN COUNCIL OF BASALT, COLORADO, VACATING THE EXISTING 176 SWINGING BRIDGE LANE ACCESS AND PARKING EASEMENT AND LICENSE AGREEMENT, AND APPROVING A NEW GARAGE ACCESS EASEMENT AND TEMPORARY PARKING AND ACCESS LICENSE AGREEMENT AT 176 SWINGING BRIDGE LANE, BASALT, COLORADO

**Ordinance No. 12
Series of 2011**

RECITALS

1. Robert and Julie MacLean (“Applicants”), submitted a revised request in January of 2011, for an Environmentally Sensitive Area (ESA) Exemption, Setback Variances, and the vacation of a portion of the existing Access and Parking Easement and License Agreement to construct a garage adjacent to the existing single-family residence at 176 Swinging Bridge Lane.
2. The Applicants received Board of Zoning Adjustment (BOZA) approval in April of 2011 for the requested setback variances for the construction of a garage pursuant to BOZA Resolution No. 1, Series of 2011.
3. BOZA Resolution No. 1, Series of 2011, required that the Applicants amend the existing license agreement to vacate the Applicants’ ability to park in the Town’s Right-of-Way adjacent to the Swinging Bridge Pedestrian Trail upon receiving a Certificate of Occupancy on the new garage authorized by BOZA Resolution No. 1, Series of 2011.
4. At a public meeting on May 24, 2011, the Basalt Town Council approved this ordinance on first reading and scheduled second reading for June 14, 2011, at meeting beginning no earlier than 6:00 PM at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado. Throughout the meeting, evidence and testimony was offered by the Applicants, Staff and members of the public.
5. At a public meeting on June 14, 2011, the Town Council heard evidence and testimony from the Applicants, Town Staff, and members of the public.
6. The Basalt Town Council finds and determines the Applicants’ request described herein to be consistent with the applicable provisions of the Town Code.

Please return to:
TOWN OF BASALT
101 Midland Avenue
Basalt, CO 81621

NOW, THEREFORE, BE IT ORDAINED by the Basalt Town Council of Basalt, Colorado, as follows:

1. The existing Access and Parking Easement Agreement and License Agreement recorded at Reception No. 838421 in the Eagle County Clerk and Recorder's Office is hereby vacated.

2. The new 176 Swinging Bridge Lane Garage Access Easement and Temporary Access and Parking License Agreement attached hereto as **Exhibit A** is hereby approved and the Mayor of the Town of Basalt is hereby authorized to execute the Amended License Agreement on behalf of the Town.

3. The approvals and conditions contained herein shall be binding on and inure to the benefit of the heirs, successors and assigns of the Applicant and the owners of the Property.

4. If any part, section, subsection, sentence, clause or phrase of this 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.

5. This Ordinance shall be effective 14 days after final publication of the Ordinance in accordance with the Town Home Rule Charter.

READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR SECOND READING TO BE HELD ON June 14, 2011 by a vote of 6 to 0 on May 24, 2011.

READ ON SECOND READING AND ADOPTED, by a vote of 6 to 0 on June 14, 2011.

TOWN OF BASALT, COLORADO

By: _____
Leroy Duroux, Mayor

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ATTEST:

By: _____
Pamela K. Schilling, Town Clerk

Ord 12- 176SwingingBridgeLaneAmendedLicenseAgreement

First Publication: Thursday, June 2, 2011
Final Publication: Thursday, June 23, 2011
Effective date: Thursday, July 7, 2011

(EXHIBIT A TO ORDINANCE NO. 12, SERIES OF 2011)

**176 SWINGING BRIDGE LANE GARAGE EASEMENT AND TEMPORARY ACCESS
AND PARKING LICENSE AGREEMENT**

This Agreement is made and entered into by and between the Town of Basalt, Colorado, a municipality of the State of Colorado, whose address is 101 Midland Avenue, Basalt, Colorado 81621, hereinafter referred to as "Town", and Robert and Julie MacLean, whose address is 260 Prior Lane, Atherton, California 94027, hereinafter referred to as the "Grantee".

WITNESSETH

WHEREAS, the Town is the owner of certain property referred to as the Old Swinging Bridge Lane Right-of-Way; and,

WHEREAS, Grantee is the owner of certain real property that abuts a portion of the Town's property described above, which is situated in the County of Eagle, State of Colorado, to wit:

A parcel of land situated in Tract No. 48 of Section 7, Township 8 South, Range 86 West of the 6th principal meridian lying Southeasterly of the Southeasterly bank of the Frying Pan River, said parcel being particularly as follows:

Beginning at a point on the Southeasterly bank of said River whence an iron post with a brass cap , found in place and properly marked for Angle Point No. 2 of said Tract No. 48 bears N. 59 degrees 16"22' W. 685.61 feet:

Thence, S. 35 degrees 36"00' E 60.00 feet;

Thence, S. 41 degrees 00"00' W 70.00 feet;

Thence, N. 23 degrees 04"37' W 78.89 feet to a point on the Southeasterly bank of said River;

Thence, N. 55 degrees 16"57' E 50.99 feet along the Southeasterly bank of said River, to the point of beginning,

hereinafter referred to as the "MacLean Property"

Whereas, the Town closed Swinging Bridge Lane, now known as Old Swinging Bridge Lane, from Cottonwood Drive to the MacLean Property to vehicular traffic, thereby eliminating access to the MacLean Property; and,

Whereas, the Town and the former owner of the MacLean Property entered into an agreement in 1997 recorded at Reception No. 838421 in the Eagle County Clerk and

Recorder's Office, providing access to the MacLean Property from Swinging Bridge Lane, formerly known as Laundry Lane, and authorizing a parking of motor vehicles on a portion of Old Swinging Bridge Lane for the benefit of the MacLean Property.

Whereas, setback variances were granted to permit the construction of a garage on the MacLean Property pursuant to Town of Basalt Board of Zoning Adjustment Resolution No. 1, Series of 2011 and as a condition of approval of said variances, the Grantee is required to vacate the ingress and egress easement and the parking license for permitting the Grantee to park in the Old Swinging Bridge Right-of-Way upon the completion of the garage.

AGREEMENT

1. Existing Agreement. The existing Agreement recorded at Reception No. 838421 in the Eagle County Clerk and Recorder's Office is hereby vacated.

2. Dedication of Temporary Access and Parking License. The Town hereby grants and conveys to the MacLeans, a temporary non-exclusive easement twelve feet (12') in width for the construction, installation, and maintenance of a driveway to provide ingress and egress to the parking license described in Paragraph 3 below, over and across common Open Space abutting the southeasterly boundary of the MacLean Property, in an area identified as #3 on the map attached the agreement and Land Dedication Quit-Claim Deed, filed in the Office of the Clerk and Recorder of Eagle County, Colorado in Book 556 at Page 234, Page 4 of 4, which map is incorporated herein by reference.

3. Temporary Parking License. The Town hereby grants to the MacLeans a revocable temporary license to park motor vehicles in that portion of Old Swinging Bridge Lane fifteen feet (15') in width abutting the Northeasterly boundary of the MacLean Property. Provided, however, motor vehicles within the license area shall not be parked in a manner that obstructs access to the Swinging Bridge over the Frying Pan River. This license may be revoked at any time by the Town upon thirty (30) days advance written notice to the owner of the MacLean Property. Regardless, this temporary parking license and the temporary access easement described in Paragraph 2 above shall also automatically be vacated upon the issuance of a Certificate of Occupancy for a garage built on the MacLean Property.

4. Garage Access Easement. The Town hereby grants to MacLean an exclusive easement twenty-two feet (22') in width for the construction, installation and maintenance of a driveway to provide ingress and egress to the MacLean Property over and across the Common Open Space abutting the Southeasterly boundary of the MacLean Property, the area defined as a parcel of land commencing at the Southeasterly corner of the MacLean Property and being twenty-two feet (22') in width Northeasterly of a line from the Southwesterly boundary point of the MacLean Property, S. 35 degrees 36"00' E. to the intersection with the Swinging Bridge Lane right of way.

relinquishment for the future of any such provision.

6.4 Amendments in Writing. This Agreement may not be amended, nor may any rights hereunder be waived, except by an instrument in writing executed by the parties hereto and duly recorded in the real estate records of Eagle County, Colorado.

6.5 Colorado Law. The interpretation, enforcement or any other matters relative to this Agreement shall be construed and determined in accordance with the laws of the State of Colorado.

6.6 Run With the Land. All the provisions of this Agreement, including the benefits and burdens created thereby, shall run with the land. This Agreement is made subject to any existing easements, reservations, restrictions or rights of way.

6.7 Binding Effect. All provisions of this Agreement inure to the benefit of and are binding upon the parties hereto, their heirs, successors, assigns and personal representatives.

IN WITNESS WHEREOF, the parties have signed this Agreement the day and year first written above.

ATTEST:

TOWN OF BASALT

By: _____
Pamela K. Schilling, Town Clerk

By: _____
Leroy Duroux, Mayor

GRANTEE:

Robert G. MacLean

Julie MacLean

