

**TOWN COUNCIL
TOWN OF GYPSUM, STATE OF COLORADO
RESOLUTION NO. 15 (SERIES 2019)**

**A RESOLUTION APPROVING THE FINAL PLAT AND FIRST AMENDMENT TO THE
SUBDIVISION IMPROVEMENT AGREEMENT FOR IK BAR RANCH**

WHEREAS, the Town of Gypsum, Colorado (“Town”), is a home rule municipality of the State of Colorado, duly organized and existing under Article XX of the Colorado Constitution and the Gypsum Home Rule Charter effective October 21, 1982; and

WHEREAS, the Town of Gypsum has the power and authority to adopt regulations regarding the subdivision of land and to enjoin any such subdivision which does not comply with such regulations, pursuant to Sections 31-23-214 and 31-23-216, C.R.S.; and

WHEREAS, the Town Council of the Town of Gypsum has adopted Title 17 of the Gypsum Municipal Code (G.M.C.) governing the subdivision of land; and

WHEREAS, the Town and the Developer previously entered into the Subdivision Improvement Agreement IK Bar Subdivision recorded on June 18, 2015 at Reception number 201511023; and

WHEREAS, the Town and Developer wish to rescind Resolution 2018-24 and adopt Resolution No.15 (Series 2019) to amend the Subdivision Improvement Agreement on the terms and conditions as set forth in the First Amendment to the IK Bar Subdivision Improvements Agreement.

WHEREAS, the Eagle County School District (“Owner”) and Habitat for Humanity (“Developer”) has requested approval of the Final Plat Attached hereto as Exhibit A and First Amendment to the Subdivision Improvement Agreement applications for the IK Bar Subdivision Attached hereto as Exhibit B; and

WHEREAS, pursuant to section 17.20 of the G.M.C., the application for Final Plat has been reviewed and considered by the Town Planning Commission, and approved at a regular meeting following public notices as required by law, and

WHEREAS, the First Amendment to the Subdivision Improvement Agreement has been reviewed and considered by the Town Planning Commission, and approved at a regular meeting following public notices as required by law, with the following conditions;

1. That as otherwise modified by this approval, all material representations of the Applicant in this application, correspondence, and public meetings shall be adhered to and considered conditions of approval, unless otherwise amended by other conditions.
2. A fully executed plat, amended covenants, and any fees payable must be received no later than April 12, 2019 to be recorded.
3. If the actual out-of-pocket costs of the Town in reviewing the application are greater than the amount of the deposit paid by the applicant, applicant shall pay the additional out-of-pocket costs incurred by the Town no later than within 30 days of receipt of an invoice.
4. Utility and access easements need to be added to the plat prior to recording mylar.
5. Effective Date. This Resolution shall become effective immediately upon adoption by the Town Council.
6. This Resolution shall become effective immediately upon adoption by the Town Council. Severability. If any part, section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

WHEREAS, the Town Council, following notice required by law, has held a public hearing to review the Final Plat and First Amendment to the Subdivision Improvement Agreement for the IK Bar Ranch and Habitat for Humanity, received and considered public comments, and reviewed the proposal;

NOW, THEREFORE, be it resolved by the Town Council of the Town of Gypsum, Colorado, that the IK Bar Subdivision Final Plat and First Amended Subdivision Improvement Agreement are hereby approved with the following conditions:

1. That as otherwise modified by this approval, all material representations of the Applicant in this application, correspondence, and public meetings shall be adhered to and considered conditions of approval, unless otherwise amended by other conditions.
2. A fully executed plat, amended covenants, and any fees payable must be received no later than April 12, 2019 to be recorded.
3. If the actual out-of-pocket costs of the Town in reviewing the application are greater than the amount of the deposit paid by the applicant, applicant shall pay the additional out-of-pocket costs incurred by the Town no later than within 30 days of receipt of an invoice.
4. Utility and access easements need to be added to the plat prior to recording mylar.
5. Effective Date. This Resolution shall become effective immediately upon adoption by the Town Council.
6. Severability. If any part, section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.
7. Ponderosa pines on the north side of the property adjacent to Cotton Ranch residents shall be exchanged out with either a pine or spruce species.

Approved and Resolved this 12th day of March, 2019, at a regular meeting of the Town Council of the Town of Gypsum, Colorado by a vote of _____ in favor and _____ against.

TOWN OF GYPSUM

By: _____

Steve Carver, Mayor *Pro Tem*
Tom Edwards

ATTEST:

By: _____

Danette Schlegel
Danette Schlegel, Town Clerk

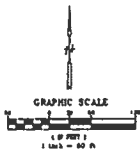
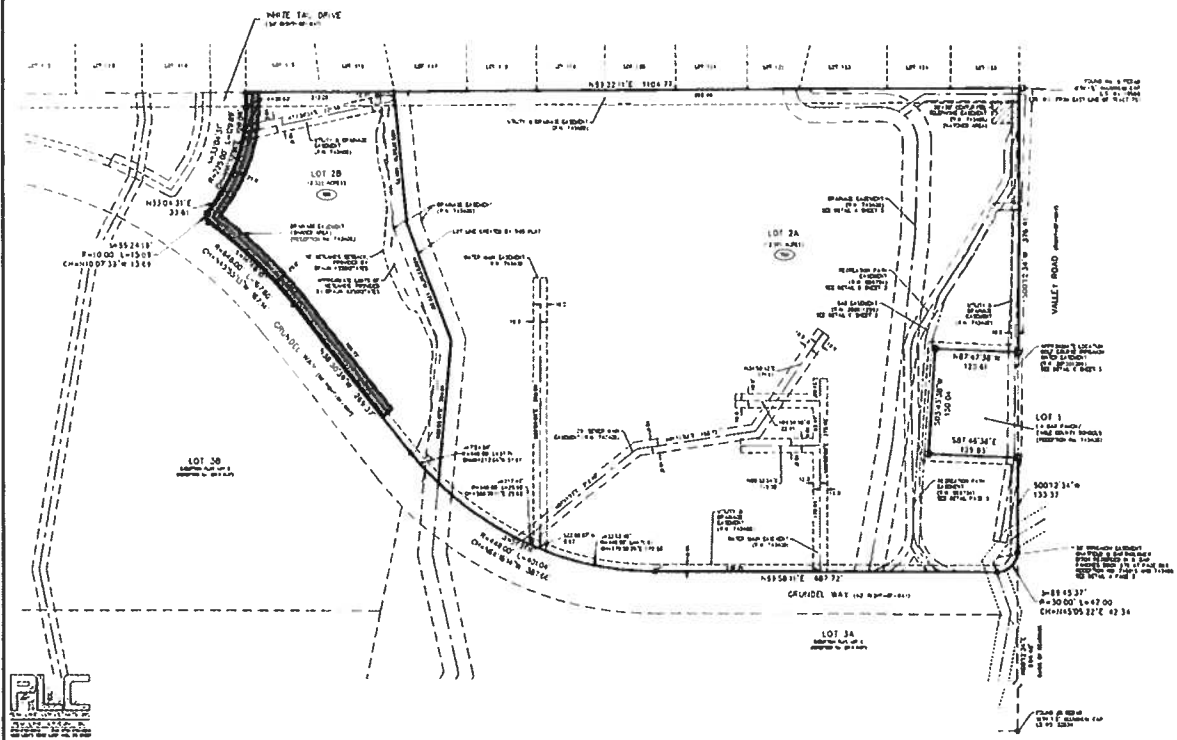


EXHIBIT A

EXEMPTION PLAT
 I K BAR RANCH/EAGLE COUNTY SCHOOLS, LOT 2,
 TOWN OF GYPSUM, COUNTY OF EAGLE, STATE OF COLORADO

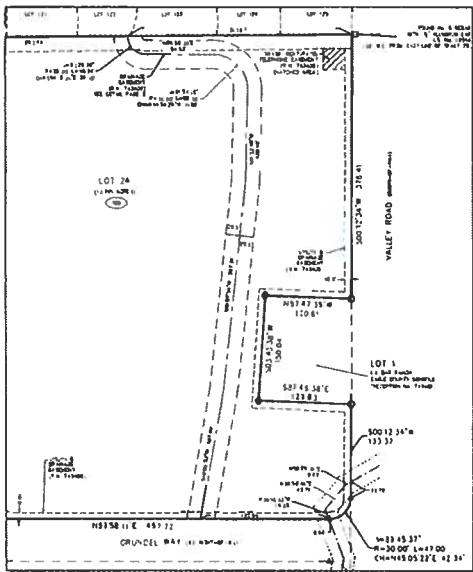
MEASUREMENT LEGEND
 ① PERMITS TO BE MEASURED WITH 1/4" TOLERANCE FOR 1/4" OR MORE
 ② PERMITS TO BE MEASURED WITH 1/8" TOLERANCE FOR 1/8" OR MORE

COTTELL RANCH PLATS 1 AND 3

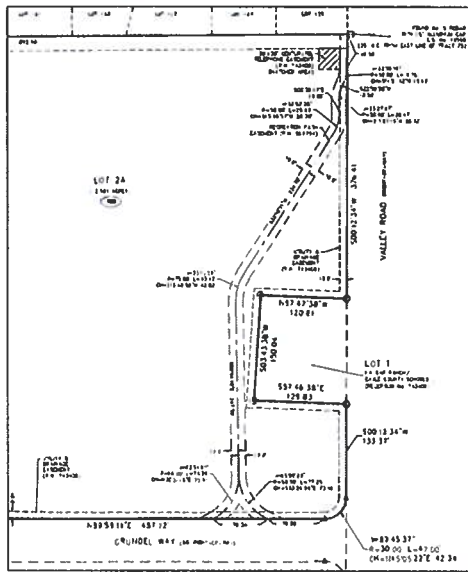


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 DATE: 1/25/13 PLC NO: 11551 SHEET 2 OF 3

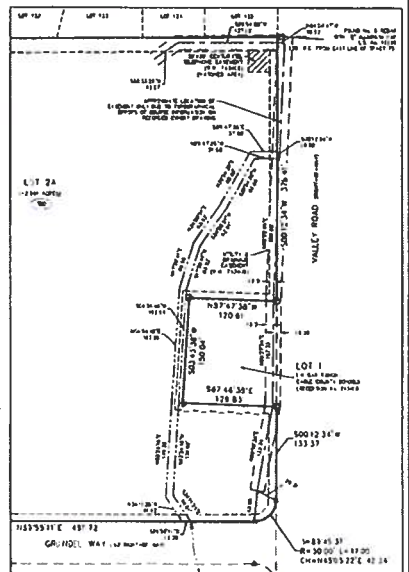
EXEMPTION PLAT
I K BAR RANCH/EAGLE COUNTY SCHOOLS, LOT 2.
TOWN OF GYPSUM, COUNTY OF EAGLE, STATE OF COLORADO



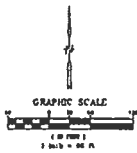
DETAIL A
DRAINAGE EASEMENT (RECEPTION No. 7434081)



DETAIL B
RECREATION PATH (RECEPTION No. 8697881)



DETAIL C
APPROXIMATE LOCATION GOLF COURSE IRRIGATION
WATER EASEMENT (RECEPTION No. 261202861)
GAS EASEMENT (RECEPTION No. 2006112991)



DATE	REVISED BY	SHEET
4/28/18	R.C. L.	2 OF 3

EXHIBIT B

**FIRST AMENDMENT TO SUBDIVISION IMPROVEMENT AGREEMENT
IK BAR SUBDIVISION**

This First Amendment to Subdivision Improvement Agreement, IK Bar Subdivision (“Amendment”) is entered into this _____ day of _____, 2019 by and between the TOWN OF GYPSUM, a home rule municipal corporation (“Gypsum”) and EAGLE COUNTY SCHOOL DISTRICT, a Colorado public school district (referred to as “School District”). Gypsum and School District are collectively referred to as “Parties,” or occasionally in the singular as “Party.”

RECITALS

WHEREAS, School District has entered into a Subdivision Improvement Agreement, IK Bar Subdivision, with the Town dated May 27, 2015 and recorded June 18, 2016 in the offices of the Eagle County Clerk and Recorder at Reception No. 201511023 (the “Original Agreement”); and

WHEREAS, the Original Agreement restricted construction on Lot 2B to up to eight (8) residential units of up to three thousand (3,000) square feet each; and

WHEREAS, in order to provide additional housing, the School District has requested an amendment to construct up to four (4) additional residential units on Lot 2B, for a total of twelve (12) residential units with a maximum size of one thousand five hundred (1,500) square feet, to be divided into six (6) duplex structures; and

WHEREAS, the Parties wish to amend the Original Agreement to provide for up to twelve (12) residential units of up to one thousand five hundred (1,500) square feet, to be divided into six (6) duplex structures, on Lot 2B, zoned as Multi-Family.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. **Amendment of Section 7.B.** Section 7.B of the Original Agreement is amended in its entirety and replaced with the following:

Rezoning of Lot 2. Future Lot 2B has been rezoned from Institutional to Multi-Family Zone District. Permitted uses within the Multi-Family Zone District include duplex dwellings; allowed density is 3,000 square feet of lot area for each dwelling unit that is 1,000 square feet or less, and 4,000 square feet of lot area for each dwelling unit greater than 1000 square feet. School District agrees that notwithstanding

the permitted uses and dwelling unit density that would otherwise apply, within Lot 2B no more than twelve (12) residential units of up to 1,500 square feet will be permitted and constructed, which shall be constructed in not more than six (6) duplex units, subject to subdivision and other applicable Town approvals.

2. **Amendment of Section 18.A.** Sections 18.A (i) and (ii) of the Original Agreement are amended in their entirety and replaced with the following:

(i) **Estimated EQR Calculation.** Gypsum and School District estimated a total EQR calculation for the property of 27 EQR, as follows:

(1) Ten (10) EQR for School uses;

(2) Five (5) EQR for five (5) Single-Family lots; and

(3) Twelve (12) EQR for Twelve Townhomes (six duplex buildings).

(ii) Therefore, the amount of the water rights dedication fee due at closing for 14.58 EQRs is calculated to be \$102,060.00 (\$7,000 x 14.58 EQR) based on the current water right dedication cash in lieu amount and shall be paid as set forth in paragraph C below. Additional water rights dedication and water tap fees shall be paid for the additional four (4) Townhomes (total of twelve townhomes) at the prevailing rate set by the Town of Gypsum Code at the time of building permit application. Provided further, if any additional EQRs shall be due as a result of any unit exceeding 3,000 square feet of living space or having more than 2,500 square feet of irrigation, additional water right dedication and water service tap fees shall be due as set forth under the Code.

3. **Amendment of Section 18.B.** Section 18.B of the Original Agreement is amended in its entirety and replaced with the following:

(a) **Water Service Tap Fees.** School District and/or Developer are required to pay water service tap fees for the 27 EQR estimated herein, pursuant to the Code, Section 13.04.080. Generally, the Town assesses a portion of that payment at final plat, with the remainder collected at building permit. The Town and School District agree that based on the Option Agreement, a portion of the water service tap fees for the 27 EQRs will be paid at closing, and the remaining portion will be paid at final plat or at building permit by the Developer or Lot Owners and in the amounts set out in paragraph 18(C). The current fee for water taps is \$6,000 per EQR. Therefore, the amount of the water service tap fee for 27

potable water EQR is calculated to be \$162,000 (\$6,000 x 27 EQR) and shall be paid as set forth in paragraph C below. Pursuant to the Code, Gypsum may re-verify actual use at each lot and at the school, and retains the discretion to assess appropriate additional water service tap fees if the actual use exceeds the EQRs estimated in this Agreement. As per the Code and paragraph D below, if any additional EQR's are required as a result of an increase in EQR's due to residential units being over 3,000 square feet in size, the additional EQR's shall be purchased from the Town at the time of the building permit application at a price determined from the water dedication fee, water service tap fees and other fees set forth in the Code at the time the building permit application is submitted.

(b) **Amendment of Section 18.C.** Section 18.C of the Original Agreement is amended in its entirety and replaced with the following:

School District Credits/Option Agreement. The Town agrees to credit the School District the water dedication fees for the 27 EQRs and credit the School District a portion of the water service tap fees, as follows. First, the Annexation Agreement, paragraph 2.1.E. provides that the School District's 8.42 EQR of water right dedication credit will be used on the Property and apply against water right dedication fees. Therefore, the Town applies the School District's water right dedication credit to the water right dedication fees for the 27 EQR's for the Property, and the District will owe the water right dedication fees for the remaining 18.58 EQR. Second, under the Option Agreement, the appraised land value of the Back Parcel applies as a credit for the School District. That credit is sufficient to cover the amounts due for the water dedication fees for 14.58 EQR, the amounts due for water service tap fees for 10 EQR to be used for School District purposes, and a portion of the 17 EQR for the five single family and twelve town house lots. Therefore, after applying the aforementioned credits, which assumes a closing on the Back Parcel, the School District and/or Developer will owe the Town a total of \$48,060.00 in water service tap fees for the five single family lots and the twelve townhouse lots. . The \$48,060.00 shall be paid by School District and/or Developer by payment of \$2,827.06/EQR at the time a building permit application is submitted for each of the five single family lots and the twelve townhouse lots (\$48,060/17 = \$2,827.06). The other 10 EQRs reserved for School District purposes will be paid in full upon Closing, assuming conveyance of the Back Parcel to the Town. The District shall not be required to provide any further documentation of its vested rights to said 27 taps and EQRs described herein, other than providing this Agreement and proof of payment of \$2,827.06 for each of the five single family lots and the twelve townhouse lots when due. The following table summarizes the transaction described herein:

Town of Gypsum Fees	EQRS (Est.)	School District EQR Credit	Adjusted EQRs, Amount	Amount Due	School District Credit from Conveyance of Back Parcel's Appraised Value	Total Due Town from Developer for 27 EQRs
Water Right Dedication Fees \$7000/EQR	27	8.42	18.58	\$130,060.00	\$102,060.00	\$28,000.00
Water Service Tap Fee, \$6000/EQR	27	0	27	\$162,000.00	\$113,940	\$48,060 (\$2,827.06 to be paid with each building permit for 5 SF lots and 12 Townhouse lots)
Total				\$292,060.00	\$216,000.00	\$76,060.00

4. Amendment of Section 18.D. Section 18.D of the Original Agreement is amended in its entirety and replaced with the following:

Additional EQR Determination and Payment. If any additional taps over and above the 27 EQRs are required for service to the Property under the Code, additional water rights dedication fees and water service tap fees shall be paid at building permit application. At the time of approval of a building permit, each lot owner shall demonstrate estimated EQRs at the lot or townhouse and any additional EQRs that are required. Additional EQRs may only be approved for indoor use, and not for additional landscaping areas. Pursuant to the Code, Gypsum may re-verify actual use at each lot, and retains the discretion to assess appropriate additional water rights dedication fees if the actual use exceeds the estimate in this Agreement or require the elimination of irrigated area allowable under this Agreement and the Code by mandating installation of hard-surface or xeriscape.

5. **Amendment of Section 18.E.** Section 18.E of the Original Agreement is amended in its entirety and replaced with the following:

EQR Limitation. As a result of the amendment of paragraph 7.B, this Agreement contemplates 27 EQR for the Property, with 10 EQR for school uses and 17 EQR for other development. Additional water rights dedication and water tap fees shall be paid in accordance with sections 18.A(ii), 18.B and 18.D. and the Town Code.

6. **Amendment of Section 18.L.** Section 18.L of the Original Agreement is amended in its entirety and replaced with the following:

System Capacity. Gypsum estimates that it currently has sufficient water system capacity to serve the number of units proposed for the Property. Because of the unique circumstances of this project and the parties having previously entered into the Option Agreement, Gypsum agrees to reserve sufficient water system capacity for twenty-seven (27) EQR's to serve the Property. Should additional EQR's be required over the 27 EQR's reserved, the Town does not guarantee that sufficient capacity will be available when building permits are requested for demands exceeding the 27 EQR reserved. For the purpose of this Agreement, insufficient water system capacity means insufficient system capacity of whatsoever kind of nature, be it well water, treatment or distribution capacity to serve all properties currently served by Gypsum whether located within or without Gypsum, and also serve the Property. Gypsum may impose a temporary or permanent moratorium on issuing water taps to serve such additional demands, should Gypsum determine in its sole subjective discretion that it has insufficient water treatment capacity to serve more than the 27 EQR's reserved to serve the Property. Upon any such moratorium, Gypsum shall take reasonable efforts to increase system capacity to serve the Property's additional demands.

7. Except as expressly modified herein, the Original Agreement shall remain in full force and affect. This Amendment constitutes the complete and entire agreement among the parties with respect to the subject matter of this Amendment.

Executed as of the first date written above.

TOWN OF GYPSUM

By: _____
Stephen M. Carver, Mayor

ATTEST:

Danette Schlegel, Town Clerk

EAGLE COUNTY SCHOOL DISTRICT

By: _____

Attest:

_____, Secretary