

CITY COUNCIL RESOLUTION

PLATTE VIEW FARM DEVELOPMENT AGREEMENT AMENDMENT

RESOLUTION No. 2015-91

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THE FIRST (1ST) AMENDMENT TO THE PLATTE VIEW FARM DEVELOPMENT AGREEMENT; AUTHORIZING THE MAYOR TO EXECUTE SAID FIRST AMENDMENT ON BEHALF OF THE CITY; AUTHORIZING THE CITY MANAGER TO UNDERTAKE SUCH TASKS AND EXECUTE SAID DOCUMENTS AS MAY BE REQUIRED TO IMPLEMENT AND ENFORCE THE PROVISIONS OF SAID FIRST (1ST) AMENDMENT; AND SETTING FORTH OTHER DETAILS RELATED THERETO.

WHEREAS, the Applicant, Kum & Go, L.C. (the “Developer”) is requesting approval of an Amendment (the First [1st] Amendment) to the Platte View Farm Development Agreement (the “First [1st] Amendment”), attached hereto as **Exhibit A** and incorporated herein by this reference; and

WHEREAS, the Platte View Farm Development Agreement was originally approved on March 5, 2002 and recorded on March 19, 2002 in Adams County, Reception No. C0085875, by and between the City of Brighton (the “City”) and Gerald E. Kessel and Platte View Farm LLC, a Colorado limited liability company, the Development Agreement was thereafter subsequently amended, this being the First (1st) Amendment; and

WHEREAS, Developer purchased Lot 2 on December 17, 2013 and is the successor in interest and in title to Gerald E. Kessel and Platte View Farm LLC as to Lot 2; and

WHEREAS, MCC Enterprises, Inc. is the owner of Lot 1 and is a successor in interest and title to Gerald E. Kessel and Platte View Farm, LLC as to Lot 1; and

WHEREAS, ED Platte View, LLC, Lake South Platte View, LLC, Javan Platte View, LLC, Cypress Platte View, LLC, DWC Platte View, LLC, CB Platte View, LLC, MAC Platte View, LLC, Elm Platte View, LLC, RRH Plate View, LLC, DRW Platte View, LLC, RPS Platte View, LLC, DAS Platte View, LLC, RAW Platte View, LLC and Liberty Bell Platte View, LLC (collectively, the “Owners”) are owners of Lot 3 and are the successors in interest and title to Gerald E. Kessel and Platte View Farm, LLC, as to Lot 3; and

WHEREAS, this First (1st) Amendment relates to the Platte View Farm subdivision plat, which was originally approved on March 5, 2002 by the Brighton City Council, and the Final Plat thereof recorded on June 19, 2002 in Adams County, at Reception No. C1159178; and

WHEREAS, Developer has submitted a plat amendment, subdividing Platte View Farm, Lot 2, into two lots combining the smaller lot with the Kum & Go Store #940 Subdivision, Lot 1, as shown in said plat amendment, attached hereto as **Exhibit B** and incorporated herein by this reference; and

WHEREAS, according to Section 17-40-210 of the *Land Use and Development Code*, the Plat Amendment would be considered a Minor Subdivision, which may be processed administratively; however, according to 17-40-220 of the *Land Use and Development Code*, the Development Agreement Amendment must be approved by City Council; and

WHEREAS, the Applicant and the Owners have executed the First (1st) Amendment to the Development Agreement for the Property; and

WHEREAS, the City Council of the City of Brighton, Colorado finds and declares that a Notice of Public Hearing is not required for a Development Agreement Amendment, according to the *Land Use and Development Code, Subdivision Regulations*; and

WHEREAS, the provisions of the First (1st) Amendment to the Platte View Farm Development Agreement comply with the City of Brighton *Comprehensive Plan*; and

WHEREAS, the provisions of the First (1st) Amendment to the Platte View Farm Development Agreement are reasonable and are not detrimental to the future development of the area or to the health, safety, or welfare of the inhabitants of the City.

NOW THEREFORE, BE IT RESOLVED by the City of Brighton City Council as follows:

1. The First (1st) Amendment to the Platte View Farm Development Agreement (attached as **Exhibit A**) is hereby approved.
2. The Mayor is authorized to execute said First (1st) Amendment on behalf of the City and the City Clerk to attest thereto.
3. The City Manager is authorized to undertake such tasks and execute such documents as may be required to implement and enforce said First (1st) Amendment.

RESOLVED, this 18th day of August, 2015.

CITY OF BRIGHTON, COLORADO

Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

Approved as to Form:

Margaret R. Brubaker, Esq., City Attorney

Exhibit A

Development Agreement First (1st) Amendment

(Follows on next page)

**FIRST (1ST) AMENDMENT
TO THE
PLATTE VIEW FARMS DEVELOPMENT AGREEMENT**

THIS IS AN AMENDMENT (the “First Amendment”) to the existing Platte View Farm Development Agreement (the “Agreement”), entered into by and between the City of Brighton, a Colorado home rule municipality (“City”), and Platte View Farm LLC., a Colorado limited liability company (“Developer”), as follows:

RECITALS

WHEREAS, The Platte View Farm Development Agreement was originally approved on March 5, 2002 and recorded on June 19, 2002 in Adams County, Reception No. C0985875, by and between the City of Brighton (the “City”) and Platte View Farm, LLC., a Colorado Limited Liability Company (“Developer”); the Agreement was thereafter subsequently amended, this being the First Amendment; and

WHEREAS, Kum & Go, L.C., (the “Owner”) purchased Lot 2 of Platte View Farm on December 17, 2013, and is the successor in interest and in title to Developer, and is, in all respects and for all purposes, the Developer under the Agreement, as amended, subject to any future assignment of Developer’s interests and obligations under this Agreement; and

WHEREAS, Owner has re-platted Lot 2 of Platte View Farm in order to include it as part of lots 1 and 2 of the Kum & Go Store #940 Subdivision, 1st Amendment, as shown in **Exhibit A**; and

WHEREAS, development regulations specify that public improvement obligations be guaranteed in a manner acceptable to the City;

NOW, THEREFORE, in consideration of the Agreement and the foregoing recitals, which are a substantive and enforceable part of this First Amendment, and for the mutual promises and covenants set forth herein, and for other good and valuable consideration, the Parties agree as follows:

1. That portion of Platte View Farm, Lot 2 that has been replatted as a portion of Lot 1, Kum & Go Store #940, 1st Amendment, is no longer a part of the Platte View Farm subdivision, and is no longer subject to the Platte View Farm Development Agreement.
2. That part of Platte View Farm, Lot 2 that has been replatted as Kum & Go Store #940, 1st Amendment, Lot 2, remains subject to the provisions of the Platte View Farm Development Agreement.
3. Owner shall construct the internal access road, as provided for in the Final Development Plans, as part of any development on Kum & Go, 1st Amendment, Lot 1.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to the Platte View Farm Development Agreement this ____ day of _____, 2015.

OWNER:

By: _____

Kum & Go, L.C.
6400 Westown Parkway
West Des Moines, IA 50266

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, the _____ for Kum & Go, L.C.

By:

WITNESS my hand and official seal:

Notary Public

My commission expires: _____

[City Signatures continue on the following page]

CITY OF BRIGHTON, COLORADO

By: Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

Approved as to Form:

Margaret R. Brubaker, Esq., City Attorney

Exhibit B

Plat Amendment

(Follows on next two (2) pages)

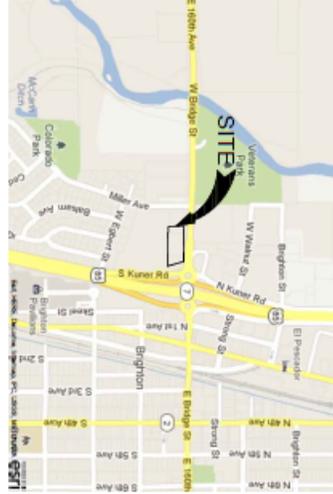
KUM & GO STORE #940, 1ST AMENDMENT

A REPLAT OF LOT 1, KUM & GO STORE #940 AND LOT 2, PLATTE VIEW FARM

SITUATED IN THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO

STATEMENT OF OWNERSHIP AND DEDICATION:
 KNOW ALL MEN BY THESE PRESENTS, THAT THE UNDERSIGNED, BEING THE OWNER(S) OF THE FOLLOWING DESCRIBED LAND:
 LOT 1, KUM & GO STORE #940 AND LOT 2, PLATTE VIEW FARM, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO.
 CONTAINING 30.230 SQUARE FEET OR 2.073 ACRES, MORE OR LESS.

HAS/HAVE SUBDIVIDED THE SAME INTO LOTS AND BLOCKS AS SHOWN ON THE ATTACHED MAP AND DOE/DID HEREBY SET ASIDE SAID PORTION OR TRACT OF LAND AND DESIGNATE THE SAME KUM & GO STORE #940, 1ST AMENDMENT A SUBDIVISION TO THE CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO AND DOES/DOED DEDICATE TO THE PUBLIC, THE STREETS AND ALL EASEMENTS OVER AND ACROSS SAID LOTS AT LOCATIONS SHOWN ON SAID MAP AND DOES/DOED FURTHER CERTIFY THAT THE WIDTH OF SAID STREETS, DIMENSIONS OF THE LOTS AND BLOCKS AND THE NAMES AND NUMBERS THEREOF ARE CURRENTLY CORRECTLY DESIGNATED UPON SAID MAP.
 KUM & GO, L.C., AN IOWA LIMITED LIABILITY COMPANY



VICINITY MAP - SCALE: 1" = 1000'

NOTARY:
 STATE OF _____)
 COUNTY OF _____)
 THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____ 2014, BY _____ AS _____ FOR KUM & GO L.C., AN IOWA LIMITED LIABILITY COMPANY. _____ WITNESS MY HAND AND OFFICIAL SEAL, SEAL.

GENERAL NOTES:
 5. THE SUBJECT PROPERTY LIES WITHIN ZONE X (AREA) DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN. ACCORDING TO FEMA FLOOD INSURANCE RATE MAP NUMBER 0801C 0327 H, WITH A REVISED DATE OF MARCH 5, 2007.
 6. ZONING INFORMATION: THE SUBJECT PROPERTY IS CURRENTLY IN TWO ZONE DISTRICTS
 LOT 1, KUM & GO STORE #940 IS ZONED "C-3" - GENERAL RETAIL AND SERVICES.
 LOT 2, PLATTE VIEW FARM IS ZONED "DT" - DOWNTOWN.

GENERAL NOTES:
 1. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY OLSSON ASSOCIATES TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD. FOR ALL INFORMATION REGARDING EASEMENTS, RIGHT-OF-WAY AND TITLE OF RECORD, OLSSON ASSOCIATES INCLUDES UPON COMMITMENT FOR TITLE INSURANCE ISSUED BY CHICAGO TITLE INSURANCE COMPANY, COMMITMENT NO. 87-C-20078555958. EXPECTED TITLE CLOSING DATE IS 11/20/2014. THIS SURVEY IS NOT A GUARANTEE OF ACCURACY AND OLSSON ASSOCIATES ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS. OLSSON ASSOCIATES HAS EXAMINED THE REFERENCED TITLE COMMITMENTS AS WELL AS EACH INSTRUMENT LISTED THEREON.

7. MAINTENANCE OF ALL PRIVATE STORMWATER TREATMENT AND DRAINAGE FACILITIES IS THE RESPONSIBILITY OF THE LAND OWNER. THE LAND OWNER IS DESIGNED AND CONTINUE SERVING THE INTENDED FUNCTION AS PERMITTED UNLESS THE CITY EXPRESSLY ACCEPTS THE RESPONSIBILITY IN WRITING A NON-EXCLUSIVE ACCESS AND DRAINAGE EASEMENTS ARE HEREBY GRANTED TO CITY OF BRIGHTON FOR THE PURPOSE OF ACCESSING, INSPECTING, MAINTAINING AND REPAIRING PRIVATE DRAINAGE FACILITIES IN THE EVENT THE LAND OWNER, ITS SUCCESSORS, AND ASSIGNS FAILS TO MAINTAIN OR REPAIR SAID FACILITIES.

2. NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE BROUGHT MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
 3. BASIS OF BEARINGS: BEARINGS ARE BASED ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN AS BEING MONUMENTED AT THE NORTHWEST CORNER OF SAID SECTION 7 BY AN ALUMINUM CAP STAMPED "AMERICAN WEST LAND SURVEYING IS A DIVISION OF THE NATIONAL ASSOCIATION OF PROFESSIONAL LAND SURVEYORS" AT THE INTERSECTION OF THE NORTH LINE OF SAID SECTION 7 BY A 5" ALUMINUM CAP STAMPED "AMERICAN WEST LAND SURVEYING IS A DIVISION OF THE NATIONAL ASSOCIATION OF PROFESSIONAL LAND SURVEYORS" A BEARING OF N89°52'32"E, A DISTANCE OF 2580.46 FEET AS SHOWN HEREON.
 4. UNITS SHOWN ON SURVEY ARE IN U.S. SURVEY FEET.

COMMUNITY DEVELOPMENT DIRECTOR APPROVAL:
 THIS IS TO CERTIFY THAT THIS PLAT AMENDMENT WAS ACCEPTED AND APPROVED BY THE COMMUNITY DEVELOPMENT DIRECTOR FOR THE CITY OF BRIGHTON ON THE _____ DAY OF _____ 2014 IN ACCORDANCE WITH SECTION 17-40-250, PLAT AMENDMENT OF THE BRIGHTON MUNICIPAL CODE.

ATTORNEY'S CERTIFICATE:
 I HEREBY CERTIFY THAT THIS SUBDIVISION PLAT HAS BEEN DULY EXECUTED AS REQUIRED AND THAT ALL PERSON SIGNING THIS SUBDIVISION PLAT ON BEHALF OF A CORPORATION OR OTHER ENTITY ARE DULY AUTHORIZED SIGNATORIES UNDER THE LAWS OF THE STATE OF COLORADO AND ALL AREAS SHOWN ON THE FINAL PLAT ARE OWNED BY THE OWNER SHOWN HEREON IN FREE SIMPLE, FREE AND CLEAR OF ALL LIENS AND ENCUMBRANCES.

SURVEYOR'S CERTIFICATE:
 I, DANA L. SPERLING, A COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY STATE THAT THIS SUBDIVISION PLAT WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY DESCRIBED THEREON. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE PROFESSIONAL STANDARD OF PRACTICE FOR SURVEYING AND THAT THE FOREGOING PLAT IS AN ACCURATE REPRESENTATION THEREOF. ALL THIS TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

CLERK AND RECORDER'S CERTIFICATE:
 THIS INSTRUMENT WAS FILED FOR RECORDING WITH THE OFFICE OF THE ADAMS COUNTY CLERK AND RECORDER IN THE STATE OF COLORADO AT _____ A.M./P.M. ON THE _____ DAY OF _____, A.D. 2014.
 RECORDED AS INSTRUMENT NO. _____

OWNER & SUBDIVIDER:
 KUM & GO, L.C.
 ATTN: RYAN HALDER
 6420 WESTOWN PARKWAY
 WEST DES MOINES, IA 52758
 (515) 487-8232

ENGINEER:
 OLSSON ASSOCIATES
 ATTN: JOHN BERGAMUS/CFE
 4538 MCKINNEY BOULEVARD, SUITE 150
 COVINGTON, LA 70038
 (870) 487-9733

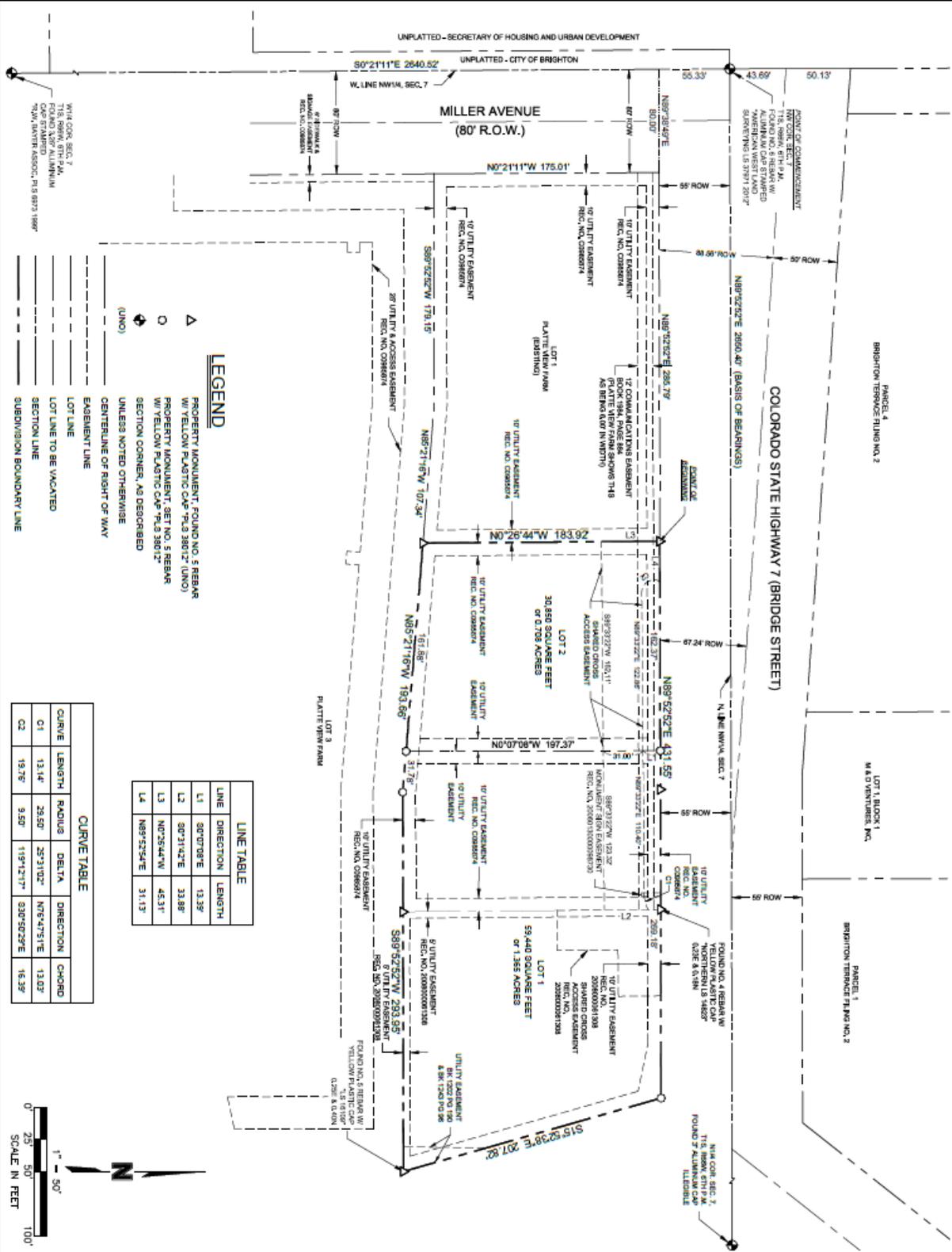
SURVEYOR:
 OLSSON ASSOCIATES
 ATTN: DANA L. SPERLING
 4538 TABLE MOUNTAIN DRIVE, SUITE 200
 COVINGTON, LA 70038
 (870) 237-5072



<p>KUM & GO STORE #940, 1ST AMENDMENT</p> <p>LOT 1, KUM & GO STORE #940 AND LOT 2, PLATTE VIEW FARMS</p> <p>BRIGHTON, COLORADO</p>	<p>2014</p>
<p>OLSSON ASSOCIATES</p> <p>4650 Table Mountain Drive, Suite 200 TEL: 303.237.2672 Golden, CO 80403 FAX: 303.237.2659 www.olssonassociates.com</p>	
<p>drawn by: _____ checked by: _____ dated: _____ approved by: _____ dated: _____ drawing no.: _____ LICENSE NUMBER: 117820071</p>	<p>1 of 2</p> <p>SHEET</p>

KUM & GO STORE #940, 1ST AMENDMENT

A REPLAT OF LOT 1, KUM & GO STORE #940 AND LOT 2, PLATTE VIEW FARM SITUATED IN THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO

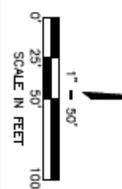


LEGEND

- ▲ PROPERTY MONUMENT FOUND NO. 5 REBAR W/ YELLOW PLASTIC CAP - PLS 3801.27' (UNO)
- PROPERTY MONUMENT, SET NO. 5 REBAR W/ YELLOW PLASTIC CAP - PLS 3801.27'
- ◆ SECTION CORNER, AS DESCRIBED
- (UNO) UNLESS NOTED OTHERWISE
- CENTRELINE OF RIGHT OF WAY
- - - EASEMENT LINE
- - - LOT LINE
- - - LOT LINE TO BE WACATED
- - - SECTION LINE
- - - SUBDIVISION BOUNDARY LINE

LINE	DIRECTION	LENGTH
L1	S87°07'08"E	13.39'
L2	S87°14'42"E	33.88'
L3	N07°35'44"W	46.31'
L4	N89°52'54"E	31.13'

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	DIRECTION	CHORD
C1	13.14'	28.50'	25°31'02"	N78°47'51"E	13.03'
C2	13.75'	9.50'	119°12'17"	S30°50'29"E	16.39'



<p>KUM & GO STORE #940, 1ST AMENDMENT</p> <p>LOT 1, KUM & GO STORE #940 AND LOT 2, PLATTE VIEW FARMS</p> <p>BRIGHTON, COLORADO</p>	<p>2014</p>		 <p>4650 Table Mountain Drive, Suite 200 TEL: 303.237.2072 Golden, CO 80403 FAX: 303.237.2069 www.olssonassociates.com</p>
<p>SHEET</p> <p>2 of 2</p>			

Exhibit C

Legal Description

(Follows on next two (2) pages)

EXHIBIT A

SITUATED IN THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 1 SOUTH, RANGE 66 WEST, OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO.

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF LOT 2, PLATTE VIEW FARM AS DEPICTED IN RECORD PLAT OF PLATTE VIEW FARM AS RECORDED AT FILE 18, MAP 717 IN THE RECORDS OF THE ADAMS COUNTY CLERK AND RECORDER SITUATED IN THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 7, BEING MONUMENTED BY A NUMBER 6 REBAR WITH AN ALUMINUM CAP STAMPED "AMERICAN WEST LAND SURVEYING LS 37971 2012", FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 7, BEING MONUMENTED BY A 3" ILLEGIBLE ALUMINUM CAP, BEARS AN ASSUMED N89°52'52"E, A DISTANCE OF 2650.40 FEET (BASIS OF BEARINGS) WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO; THENCE N89°52'52"E, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF SECTION 7, A DISTANCE OF 528.38 FEET; THENCE S00°07'08"E, A DISTANCE OF 55.00 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 2, PLATTE VIEW FARM AND THE POINT OF BEGINNING;

THENCE N89°52'52"E, ALONG SAID NORTH LINE OF LOT 2, A DISTANCE OF 123.00 FEET TO THE NORTHEAST CORNER THEREOF;

THENCE S00°31'42"E, ALONG THE EAST LINE OF SAID LOT 2, A DISTANCE OF 200.01 FEET TO THE SOUTHEAST CORNER THEREOF;

THENCE ALONG THE SOUTH LINE OF SAID LOT 2 THE FOLLOWING TWO (2) COURSES:

- 1) S89°52'52"W, A DISTANCE OF 92.76 FEET TO AN ANGLE POINT THEREON;
- 2) N85°21'16"W, A DISTANCE OF 31.78 FEET;

THENCE N00°07'08"W, A DISTANCE OF 197.37 FEET TO THE POINT OF BEGINNING.

CONTAINING 24,703 SQUARE FEET OR 0.567 ACRES, MORE OR LESS.



DANA L. SPURLING
PROFESSIONAL LAND SURVEYOR
COLORADO LICENSE NO. 38012

SHEET 1 OF 2

DATE: 12.23.2014

DRAWN BY: LHG

CHECKED BY: DLS

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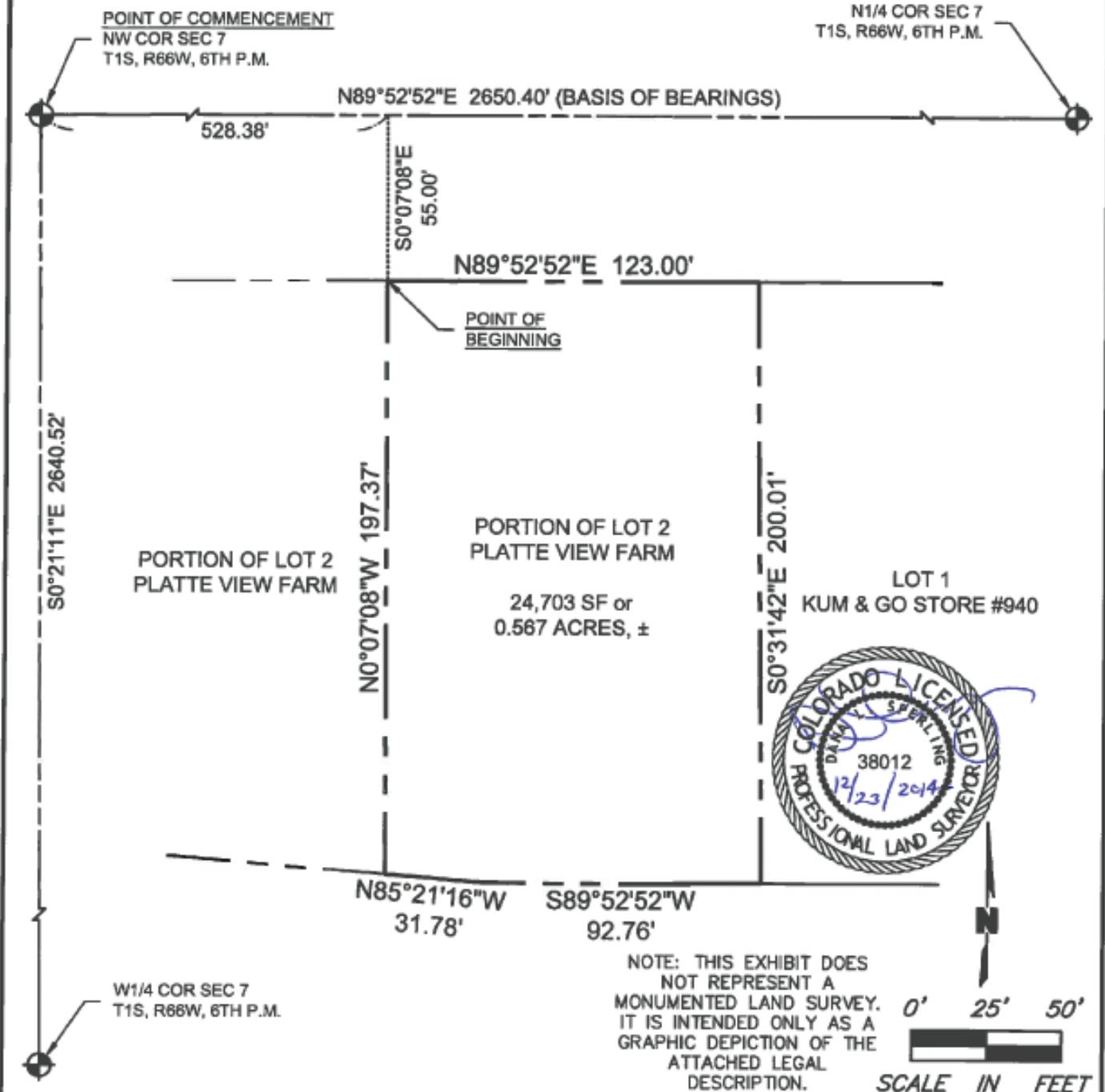
EXHIBIT A:
PARCEL
LEGAL
DESCRIPTION

 **OLSSON**[®]
ASSOCIATES

4600 Table Mountain Drive, Suite 200 TEL 303.237.2672
Golden, CO 80403 FAX 303.237.2659 www.olssonassociates.com

EXHIBIT A

SITUATED IN THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 1 SOUTH, RANGE 66 WEST, OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO.



SHEET 2 OF 2	
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CHECKED BY: DLS	
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EXHIBIT A:
PARCEL
LEGAL
DESCRIPTION

OLSSON ASSOCIATES

4990 Table Mountain Drive, Suite 200 TEL 303.237.2072
 Golden, CO 80402 FAX 303.237.2899 www.olssonassociates.com