ORDINANCE NO. 691

AN ORDINANCE VACATING A PORTION OF THE ALLEY BETWEEN CHESTNUT STREET AND
POPLAR STREET, AS DESCRIBED IN ATTACHMENT 1, AND RESERVING AN EASEMENT TO
THE TOWN OF HAYDEN FOR MAINTENANCE, REPAIR AND CONSTRUCTION OF PUBLIC
UTILITIES AND PUBLIC ACCESS ON, OVER AND UNDER THE REAL PROPERTY DESCRIBED
IN ATTACHMENT 1

RECITALS

1. Kum & Go #1904, Colorado ("Kum & Go") has requested that the Town of Hayden
(the "Town") vacate the alley between Chestnut Street and Poplar Street, as described
in Attachment 1, (the "Vacated Area"), in order to convey such Vacated Area by quit
claim deed to Kum & Go; and,

2. The Town has existing water lines within the Vacated Area and needs to reserve an
easement for maintenance, repair and construction of public utilities and public
access on, over and under the real property described in Attachment 1 and also to
include in the easement a reservation that precludes the construction of
improvements or the deposit of materials, in or on the Vacated Area, which could
impair the Town’s installation and maintenance of the public utilities and public access
within the Vacated Area; and,

3. The Town has determined that the vacation of the Vacated Area will not negatively
impact the proper development of surrounding properties; and,

4. Vacation of the Vacated Area will not be contrary to Hayden Land Use Code; and,

5. The Board of Trustees has held a public hearing on the request to vacate the Vacated
Area and has approved said vacation.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN,
COLORADO:

Section 1. Vacation. The alley between Chestnut Street and Poplar Street, as described in
Attachment 1, is hereby vacated, subject to and reserving in the Town an easement for
maintenance, repair and construction of public utilities and public access on, over and under the
real property described in Attachment 1. Such easement shall also include a reservation that
precludes Kum and Go’s construction of improvements or the deposit of materials, in or on the
Vacated Area, which could impair the Town's installation and maintenance of the public utilities and
public access within the Vacated Area. Such easement and reservations shall be reflected in the
quit claim deed described in Recital 1. Above.
Section 2. Severability. If any 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.

Section 3. Effective Date. This Ordinance, immediately on final passing and adoption, shall be published in accordance with Section 3-3h of the Home Rule Charter and recorded in the Town Book of Ordinances kept for that purpose, authenticated by the signatures of the Mayor and Town Clerk. This Ordinance shall be in full force and effect fifteen (15) days after its publication in accordance with Section 3-3h of the Hayden Home Rule Charter.

Section 5. Public Hearing. A public hearing on this Ordinance will be held on the 4th day April, 2019, at 7:30 p.m. at the Hayden Town Hall, 178 West Jefferson Ave, Hayden, Colorado.

INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO SUBSECTION 3-3(d) OF THE HAYDEN HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, UPON A MOTION DUELY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF HAYDEN, ON THE DAY OF, 2019.

Mayor

ATTEST

Town Clerk

FINALY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SUBSECTIONS 3-3 (e) through (h) OF THE HAYDEN HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, UPON A MOTION DUELY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF HAYDEN, ON THE 18th day of April, 2019 at 8:00 p.m.

Mayor

ATTEST

Town Clerk
VACATION OF A PORTION OF A PUBLIC ALLEY
A Part of the Plat of EPHUS DONELSON'S FIRST ADDITION TO THE TOWN OF HAYDEN
Lying in the Northeast Quarter of Section 9, Township 6 North, Range 88 West of the Sixth Principal Meridian
Town of Hayden, County of Routt, State of Colorado

PORTION OF ALLEY
BEING VACATED

C.W. JEFFERSON AVENUE (80' R/W BY PLAT)

0°  20°  40°
SCALE: 1"=40'

This map does not represent a monumented land survey. It is only a graphic depiction of the accompanying description.

DESCRIPTION OF PORTION OF ALLEY BEING VACATED
A Tract of land for the purpose of vacation of a portion of a public alley, said portion being vacated more particularly described as follows:

That portion of the public alley lying between the southwesterly lines of Lots 7, 8 and 9, EPHUS DONELSON’S FIRST ADDITION TO THE CITY OF HAYDEN and the northeasterly lines of Lots 7, 8 and 9, Block 2, EPHUS DONELSON’S SECOND ADDITION TO THE CITY OF HAYDEN.

On behalf of Olsson,

Mark A. Gabert
Professional Land Surveyor
Colorado Registration Number: 38567

1525 Raleigh Street,
Suite 400
Denver, CO 80204
TEL 303.237.2072
FAX 303.237.2059
www.olsson.com
PRIVATE CROSS ACCESS AND DRAINAGE EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS that TOWN OF HAYDEN, COLORADO (hereinafter referred to as "Grantor") and KUM & GO, L.C., an Iowa limited liability company (hereinafter referred to as "Grantee") for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants and conveys the easements described in this Private Cross Access Easement (hereinafter referred to as "Easement").

WHEREAS, Grantor owns legal title to the real property legally described as follows (hereinafter referred to as "Easement Area"):

SEE EXHIBIT "A" ATTACHED HERETO

WHEREAS, Grantee owns legal title to the real property legally described as follows (hereinafter referred to as "Benefited Parcel"):

Kum & Go Store #1904, Lot 10R

WHEREAS, Grantor desires to grant certain easement rights benefitting the Benefited Parcel and burdening the Easement Area.

NOW, THEREFORE, Grantor hereby grants and conveys to the owners, customers, invitees, lessees, sublessees, employees, agents, licensees, contractors, vendors and suppliers of the Benefited Parcel, in common with others entitled to use the Easement Area, a non-exclusive easement for the passage of vehicles over and across the Easement Area; and an easement for the installation and maintenance of improvements for the overland flowage and drainage structures for storm water over and across the Easement Area.

This Easement shall be subject to the following terms and conditions:

1. ERECTION OF STRUCTURES PROHIBITED. Grantor, its successor or assigns, shall not erect any fence or other structure under, over, on, through, across or within the Easement Area.
2. PLACEMENT OF OBSTRUCTIONS, PLANTINGS AND MATERIALS PROHIBITED. Grantor, its successor or assigns, shall not cause or permit any obstruction, planting or material to be placed under, over, on, through, across or within the Easement Area.

3. CHANGE OF GRADE PROHIBITED. Grantor, its successor or assigns, shall not substantially change the grade, elevation or contour of any part of the Easement Area.

4. INSTALLATION AND MAINTENANCE OF IMPROVEMENTS. Grantee, at its sole expense, agrees that it shall be responsible for the maintenance and repairs of the improvements for the overland flowage and drainage of storm water unless such repairs or maintenance are required by the fault or negligence of Grantor.

5. TEMPORARY CONSTRUCTION EASEMENT. Grantor hereby grants to Grantee, its agents, representatives, and contractors, a temporary construction easement within the Easement Area. This temporary construction easement shall be effective until the completion of drainage facilities contemplated herein. Until construction has been completed, Grantors shall not interfere or disturb the construction work within the Easement Area without written approval of the Grantee or its authorized Representatives. Upon Grantee’s completion of the construction in the Easement Area, Grantee shall restore any area on Grantors’ property disturbed by Grantee’s construction work to substantially the condition it was in prior to the commencement of Grantee’s construction activities.

5. RIGHT OF ACCESS. The owner of the Benefited Parcel shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described, including but not limited to, the right to remove, without liability to Grantor, any unauthorized fences, structures, obstruction, planting or material placed or erected under, over, on, through, across or within the Easement Area.

6. EASEMENT RUNS WITH LAND. This Easement shall be deemed to run with the land and shall be binding on Grantor and Grantor’s successors and assigns and shall benefit the owner of the Benefited Parcel and its successors and assigns.

7. COVENANTS. Grantor does hereby covenant that (i) Grantor holds the real property described as the Easement Area by title in fee simple; (ii) Grantor has good and lawful authority to convey this Easement; and (iii) Grantor covenants to warrant and defend the real property described as the Easement Area against the claims of all persons whatsoever.

Words and phrases herein including acknowledgement hereof shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

DATED June 6, 2019.
STATE OF CO  
COUNTY OF Routt  

By: J. Timothy Redmond  
Title: Mayor  

On this 6 day of June, 2019, before me, the undersigned, a Notary Public in and for the State of Colorado, personally appeared J. Timothy Redmond, to me personally known who, being by me duly sworn, did say that he/she is a Mayor of TOWN OF HAYDEN, COLORADO executing the foregoing instrument; that no seal has been procured by the Town of Hayden; that the instrument was signed on behalf of the Town of Hayden by authority of its members/managers and that Sharon M. Johnson acknowledged execution of the instrument to be the voluntary act and deed of the limited liability company by it voluntarily executed.

By: Sharon M. Johnson  
Notary Public in and for said State