AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Subdivision Exemption; Cathy Benson; N1/2 Lot 9, O

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Request for subdivision exemption to allow issuance of "household use" only well permit for existing lot.

Fiscal Impact:

Submitted by: Neal Starkebaum **Submitter's Email Address:** nstarkebaum@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok - gs

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 11/10/2016 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\khaase Discharge Date: 11/10/2016

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 5

Agenda Date: 11/15/2016

Revised April 2015

Gunnison County Community
Development Department
Offices of Planning, Building and Environmental Health
221 N. Wisconsin St., Ste. D
Gunnison, CO 81230
Phone: (970) 641-0360 Fax: (970)641-8585

November 7, 2016

TO: **Board of County Commissioners**
Matthew Birnie, County Manager
David Baumgarten, County Attorney

FROM: **Neal Starkebaum**
Assistant Director

SUBJECT: **Cathy Benson request for relief**
Subdivision Exemption to allow a well permit
N1/2 Lot 9, Ohio Meadows Subdivision F #1

The creation of the N1/2 Lot 9, 4.4-acres and the S1/2 Lot 9, 4.1-acres, Ohio Meadows Subdivision F#1, is reflected on survey plats filed with the office of the Gunnison County Clerk and Recorder at Reception Nos. 324467 and 324468, February 14, 1978, respectively. No records could be located showing the resultant parcels went through a County subdivision process.

The Board has previously reviewed these requests on a “case-by-case” basis. In this instance, there is no apparent attempt to evade or circumvent subdivision regulations, as the parcel was created in 1978. The covenants of Ohio Meadows allow the resubdivision of lots, meeting specific criteria, which these lot do. The S1/2 Lot 9 has an existing residence and well, constructed in 1980 and the N1/2 Lot 9 is currently vacant. The exemption will allow the owners of the N1/2 Lot 9 to obtain a well permit for limited household use (the Ohio Creek drainage is over-appropriated) and building permit. The Colorado Division of Water Resources does not have an objection to the Board granting an exemption to allow for the issuance of a limited “household use” only well permit.

Please see the attached letter from Cathy Benson requesting relief and a draft Board Resolution.

Benson
Sotheby's
INTERNATIONAL REALTY

401 Elk Avenue | Post Office Box 210
Crested Butte, Colorado 81224
t 970.349.6653
f 970.349.6654
BensonSothebysRealty.com

October 27, 2016

Neal Starkebaum

Planning

221 N. Wisconsin Suite D

Gunnison, Co 81230

To Neal Starkebaum:

RE: N ½ Lot 9, Filing !! Ohio Meadows Subdivision

This lot war re-subdivided in 1978. We discovered that the Division of Water Resources will not issue a well permit without documentation that Gunnison County approved of this re-subdivision.

I am requesting approval of this division from the County commissioners as soon as possible.

Respectfully submitted,

M. Catherine Benson

Managing Broker

Each Office is Independently Owned and Operated.

Received
10/31/16

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY
RESOLUTION NO. 2016-__

A RESOLUTION GRANTING AN EXEMPTION FOR A DIVISION OF LAND FROM THE DEFINITION OF THE TERMS "SUBDIVISION" AND "SUBDIVIDED LAND" N½ LOT 9, OHIO MEADOWS SUBDIVISION FILING NO. 1

WHEREAS, pursuant to C.R.S. 30-28-101(10)(d), the Board of County Commissioners of Gunnison County may exempt from the statutory definitions of the terms “subdivision” and “subdivided land” if the Board determines that such division is not within the purposes of C.R.S. 30-28-101 *et seq.*; and

WHEREAS, the Board of County Commissioners of Gunnison County, Colorado is informed of the following:

1. Ohio Meadows Subdivision Filing No. 1 was approved by the Board of County Commissioners on November 2, 1970, and is recorded in the office of the Gunnison County Clerk and Recorder at Reception No. 282025.

2. The Protective Covenants of the Castle Mountain Company, Ohio Meadows Subdivisions, recorded in the office of the Gunnison County Clerk and Recorder at Book 424, Page 114, November 19, 1970, allow the subdivision of any tract, resulting in not less than 100,000 square feet and frontage of not less than 250 feet on a road.

3. The N1/2 Lot 9, 4.4-acres and the S1/2 Lot 9, 4.1-acres, are reflected on survey plats filed with the office of the Gunnison County Clerk and Recorder at Reception Nos. 324467 and 324468, February 14, 1978, respectively.

4. The N1/2 Lot 9, Ohio Meadows Filing No. 1 is currently vacant.

5. The S½ Lot 9, Ohio Meadows Filing No. 1 has an existing residence and well, constructed in 1980.

6. The development is located within the Ohio Creek drainage, which is over-appropriated and groundwater is subject to priority administration.

5. In discussions between Gunnison County and the Colorado Division of Water Resources, a solution, which is acceptable to the Division of Water Resources, would be to have the County exempt the lot from the statutory definition of “subdivision” and subdivided land, which would allow the Division of Water Resources to issue an exempt “household-use only” well permit.

WHEREAS, the “household-use-only” well is the planned water supply for the N½ Lot 9, Ohio Meadows Subdivision F#1; and

WHEREAS, the Board of County Commissioners desire that the owners of the N½ Lot 9, Ohio Meadows Subdivision F#1 should not be impaired in their general ability to obtain a “household-use-only” well permit and building permit; and

WHEREAS, the Board of County Commissioners desires to exempt the N½ Lot 9, Ohio Meadows Subdivision F#1 from the definitions of "subdivision" and "subdivided land" pursuant to C.R.S. 30-28-101(10)(d) for the purpose of facilitating the "exempt" status of a single “household-use-only” well;

NOW, THEREFORE, BASED ON THE FINDING AND PURPOSES SET FORTH ABOVE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that an exemption is granted, pursuant to C.R.S. 30-28-101(10)(d) of the N½ Lot 9, Ohio Meadows Subdivision F#1 from the definition of "subdivision" and "subdivided land" for the purpose of facilitating the "exempt" status of a single “household-use-only” well.

THIS RESOLUTION AND THE APPROVAL GRANTED HEREBY shall not be effective unless and until a copy is recorded in the Office of the Clerk and Recorder of Gunnison County.

INTRODUCED by Commissioner _____, seconded by Commissioner _____, and adopted on this ____ day of _____, 2016.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

_____
Paula Swenson, Chairperson

_____
Phil Chamberland, Commissioner

_____
Jonathan Houck, Commissioner

ATTEST:

_____
Gunnison County Clerk and Recorder