AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Supplemental Map of Back Nine Condominiums – Build

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Approval of Supplemental Map of Back Nine Condominiums – Building B and Supplemental Declaration of Covenants.

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 db 3/2/18

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 3/2/2018 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 3/2/2018

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

Agenda Date: 3/6/2018

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

February 27, 2018

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

FROM: **Neal Starkebaum**
Assistant Director

SUBJECT: **West Elk Properties, LLC – Mark Lucas**
Supplemental Map of Back Nine Condominiums – Building B

Approval of Supplemental Map of Back Nine Condominiums – Building B and Supplemental Declaration of Covenants.

Attachments:
Condominium Map
Supplemental Declarations

SUPPLEMENTAL MAP OF THE BACK NINE CONDOMINIUMS, BUILDING B
GUNNISON COUNTY, COLORADO

NOTES

1. Any person who acquires any interest in any of the real property platted on this Supplemental Map shall be deemed to have accepted the terms, conditions, exceptions, restrictions, limitations and definitions set forth herein and in the Declaration Establishing The Back Nine Condominiums recorded as Reception No. 573386 and the Supplemental Declaration Establishing Building A of The Back Nine Condominiums recorded as Reception No.

2. According to Colorado law you must commence 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 on any defect in this survey be commenced more than ten years from the date of the surveyor's certificate shown hereon.

3. Upon completion of the installation or maintenance of any utilities, the property disturbed or damaged by such installation or maintenance shall be restored as near as reasonably possible to its original condition.

4. Animals must be controlled by kenneling, leashing or other physical constraint. Any expense of enforcing domestic animal control restrictions by Gunnison County shall be at the expense of the The Back Nine Condominiums Association or the individual unit owner.

5. C.R.S. Section 35-46-101 et seq. requires The Back Nine Condominiums Association to construct and maintain fencing to keep livestock off of The Back Nine Condominiums property.

6. An irrigation ditch owner has the right to enter the designated irrigation ditch maintenance easement, maintain the ditch and leave natural debris on the bank of the ditch.

SURVEYOR'S CERTIFICATE

I, Timothy E. Pearson, do hereby certify that I am a professional land surveyor licensed under the law of the State of Colorado, that this Supplemental Map is a true, correct and complete map of The Back Nine Condominiums, Building B as laid out, platted and dedicated and shown hereon, that such Supplemental Map was made by me from an accurate survey of said property by me and under my supervision and correctly shows the location and dimensions of the boundary and easements of The Back Nine Condominiums, Building B as the same are staked upon the ground in compliance with applicable regulations governing the subdivision of land. This Supplemental Map contains all information required by C.R.S. Section 38-33.3-209.

Dated this 20th day of February, 2018.

Timothy E. Pearson
Timothy E. Pearson
Colorado Professional L.S. No. 34979

ATTORNEY'S OPINION

I, David Leinsdorf, an attorney at law licensed to practice in the State of Colorado, hereby certify that I have examined title to all lands herein dedicated and shown upon this Supplemental Map. Such title is vested in West Elk Properties, LLC, a Colorado limited liability company, and is free and clear of all liens, defects, encumbrances, restrictions and reservations, except as follows:

1. The lien for 2018 real property taxes and assessments.

2. The following reservations as contained in United States Patent of record:

A. The right of the proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises hereby granted, as provided by law. C

B. A right of way for ditches or canals constructed by the authority of the United States.

3. Restrictions as contained in the Declaration of Protective Covenants for Dos Rios Unit No.3, recorded October 3,1978 in Book 521 at Page 582 and Amendments recorded October 29,1997 as Reception No. 479386 and September 1, 2005 as Reception No. 557682.

4. Utility easement conveyed to the Gunnison County Electric Association, Inc. by Tomichi Investments Ltd., in instrument recorded October 8,1982 in Book 585 at Page 185, said easement being 16 feet in width, the location of which is not defined.

5. Terms and conditions in Grant of Easement between Carl A. Nelson, Trustee for the Ralph C. Rounds Living Trust and the Board of County Commissioners of Gunnison County, Colorado, for the construction and installation of an underground water delivery system as recorded October 7, 1992 in Book 713 at Page 359.

6. Terms and conditions in Grant of Easement between Carl A. Nelson, Trustee for the Ralph C. Rounds Living Trust and the Board of County Commissioners of Gunnison County, Colorado, for the installation and maintenance of underground water lines, as recorded October 7, 1992 in Book 713 at Page 363.

7. The following matters as disclosed on the Improvement Location Certificate dated September 29,2005, prepared by Timothy E. Pearson, Colorado L.S. No. 34979:

A. Pump and Path

B. 2 ditches

C. Sewer Line

D. Fences off property line

E. 10' x 10' shed

F. Stucco Sign

8. Non-exclusive easement and right of way for access and utilities for Tomichi Condominiums, Buildings A, B and C as described in dedication of Map of Tomichi Condominiums Buildings A, B and C bearing Reception Nos. 371960, 375534 and 384636.

9. Easement for the continued existence, maintenance, repair and access to the existing well house containing the Unit 3 Well No. 102 decreed under Case No. W-3392 of the Water Court for Water Division 4, and the water lines extending therefrom to Tomichi Condominiums pursuant to the condominium maps thereof as disclosed in Warranty Deed recorded November 1, 1994 in Book 755 at Page 25.

10. Right of Way Easement to Gunnison County Electric Association, Inc., its successors and assigns, recorded February 18, 2005 as Reception No. 550980.

11. Water rights, claims or title to water, whether or not shown by the public records. .

12. Map of the Back Nine Condominiums, Building C and Declaration Establishing The Back Nine Condominiums recorded, respectively, as Reception Numbers 573385 and 573386.

13. Supplemental Map of The Back Nine Condominiums, Buildings E and F, and Supplemental Declaration Establishing Buildings E & F of The Back Nine Condominiums recorded, respectively, as Reception Numbers 575235 and 575236.

14. Supplemental Map of the Back Nine Condominiums, Building A, recorded as Reception No. 581541.

15. Grant of License recorded as Reception No. 573614.

16. Grant of Easement recorded as Reception No. 584209.

17. Right of Way and Easement recorded as Reception No. 650816.

Dated this 26 day of February, A.D. 2018.

David Leinsdorf, Attorney at Law
Colorado Supreme Court Registration No. 2740

DEDICATION

West Elk Properties, LLC, a Colorado limited liability company, being the owner of the land described below, hereby declare and execute this Supplemental Map of THE BACK NINE CONDOMINIUMS, BUILDING B, County of Gunnison, State of Colorado, as follows:

1. Dedication. West Elk Properties, LLC, being the owner of the land described as follows:

PARCEL A

A parcel of land located in the S 1/2 of Section 10, Township 49 North, Range 1 West, N.M.P.M., County of Gunnison, State of Colorado, more particularly described as follows:

COMMENCING at the northeast corner of said Section 10, from whence the East 1/4 corner of said Section 10 bears S 00°50'25" E a distance of 2658.71 feet; THENCE S 26°03'01" W a distance of 5872.07 feet to the South 1/4 corner of said Section 10;
THENCE N 89°31 '00" W along the south line of said Section 10 a distance of 68.03 feet to the POINT OF BEGINNING;
THENCE N 89°31 '00" W along said south line a distance of 340.00 feet;
THENCE N 00°29'00" E a distance of 175.00 feet;
THENCE S 89°31 '00" E a distance of 140.00 feet;
THENCE N 38°33'33" E a distance of 594.58 feet to a point on the southerly boundary of Dos Rios Unit 3 as shown on the plat thereof bearing Reception No. 331760 in the records of Gunnison County;
THENCE S 66°06'17" E along said southerly boundary a distance of 98.53 feet to a point at the end of Fairway Lane;
THENCE S 61°32'28" E 148.99 feet;
THENCE S 42°59'36" E along said southerly boundary a distance of 54.46 feet; THENCE S 41°17'00" W a distance of 653.62 feet to the POINT OF BEGINNING.

PARCEL B

A parcel of land located in the S 1/2 of Section 10, Township 49 North, Range 1 West, N.M.P.M., County of Gunnison, State of Colorado, more particularly described as follows:

COMMENCING at the northeast corner of said Section 10, from whence the East 1/4 corner of said Section 10 bears S 00°50'25" E a distance of 2658.71 feet; THENCE S 26°03'01" W a distance of 5872.07 feet to the South 1/4 corner of said Section 10 which is the POINT OF BEGINNING;
THENCE N 89°31 '00" W along the south line of said Section 10 a distance of 68.03 feet;
THENCE N 41°17'00" E along the east boundary of Parcel A a distance of 653.62 feet to the southeast corner of Lot 59 of said Dos Rios Unit 3;
THENCE S 30°13'00" E a distance of 86.92 feet;
THENCE S 36°34'00" W a distance of 468.00 feet;
THENCE S 72°21'37" W a distance of 134.47 feet to the POINT OF BEGINNING.
EXCEPTING from PARCELS A and B above the following described lands:

That property platted as Buildings A, Band C, TOMICHI CONDOMINIUMS, according to the Plat filed for record January 13, 1983 as Reception No. 371960,

ALSO that property platted as Building D, TOMICHI CONDOMINIUMS, according to the Plat filed for record August 3, 1983 as Reception No. 375534,

AND that property platted as Building E, TOMICHI CONDOMINIUMS, according to the plat filed for record November 7, 1984 as Reception No. 384636,

County of Gunnison,
State of Colorado

under the name of THE BACK NINE CONDOMINIUMS, BUILDING B, have laid out, platted and/or subdivided the same as shown on this Supplemental Map and do hereby permanently dedicate and convey to the owners of condominium units within this condominium and their guests, but not to the public at large, the common right to use streets, alleys, roads and other areas as shown hereon and hereby permanently dedicate those portions of land labeled as easements for the installation and maintenance of public utilities as shown hereon.

2. Supplemental Condominium Declaration. The real property laid out as THE BACK NINE CONDOMINIUMS, BUILDING B, County of Gunnison, State of Colorado, is platted and dedicated pursuant to the terms and conditions of the Declaration Establishing The Back Nine Condominiums dated, March 2, 2007 and recorded March 6, 2007 as Reception No. 573386 of the records of Gunnison County, Colorado and the Supplemental Declaration Establishing Building B of The Back Nine Condominiums dated the _____ day of _____, 2018 and recorded _____, 2018 as Reception No. _____ of the records of Gunnison County, Colorado.

IN WITNESS WHEREOF, West Elk Properties, LLC, a Colorado limited liability company, has subscribed their name this 26 day of February, A.D. 2018.

West Elk Properties, LLC, a Colorado limited liability company
By: _____
Mark P. Lucas, Manager

JULIE BATHJE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID #20154001177
My Commission Expires January 11, 2020

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The foregoing Dedication was acknowledged before me this 26 day of February, 2018 by Mark P. Lucas, Manager of West Elk Properties, LLC, A Colorado limited liability company.

Witness my hand and official seal. My commission expires:

Notary Public

BOARD OF COUNTY COMMISSIONERS' APPROVAL

The within Supplemental Map of THE BACK NINE CONDOMINIUMS, BUILDING B, is approved this _____ day of _____, 2018, and the private dedication of roads and common areas is approved on the condition that such roads and common areas shall be maintained and snowplowed by and at the expense of the unit owners and not by Gunnison County or any other public agency.

_____
Chairperson

Attest:

_____
Gunnison County Clerk & Recorder

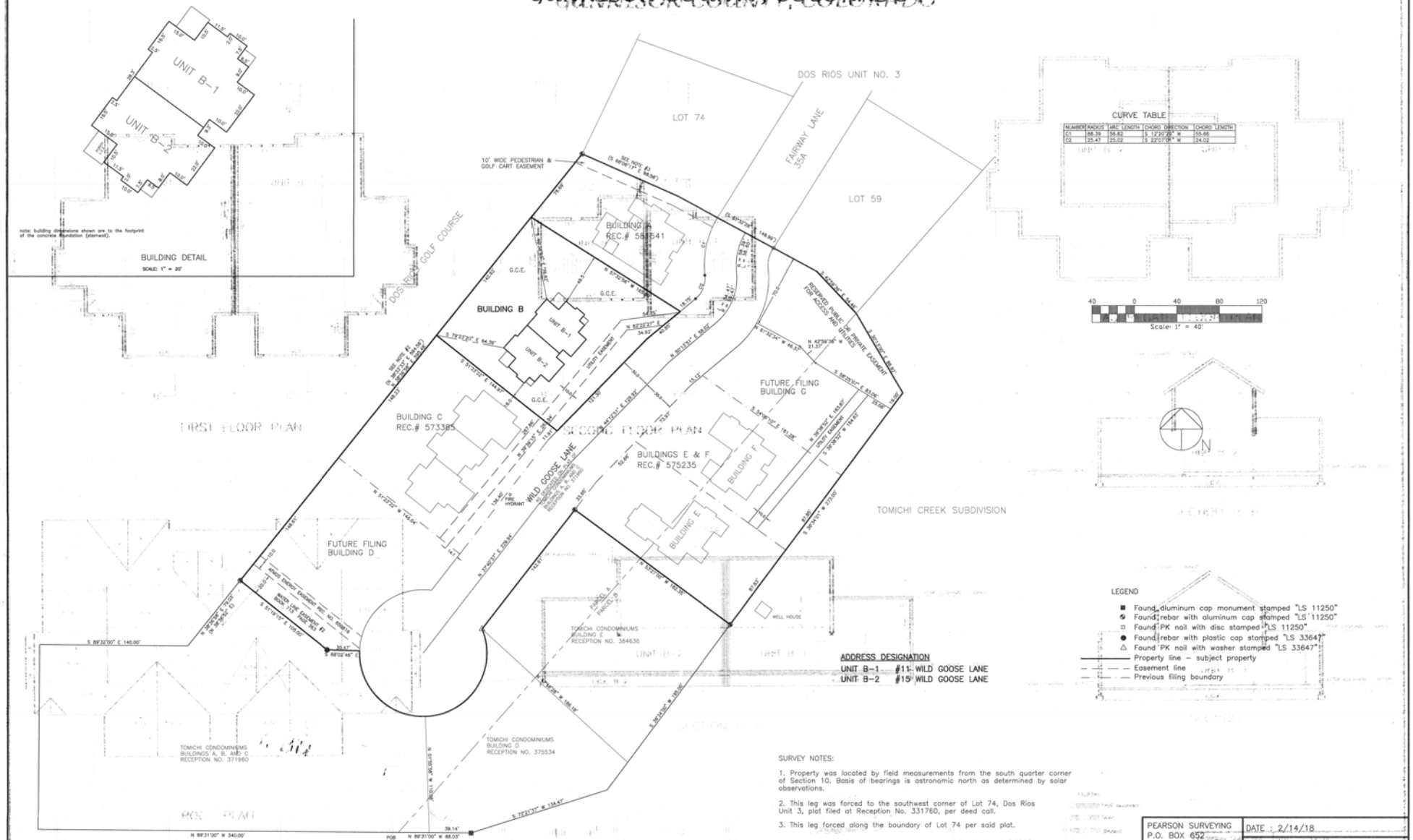
GUNNISON COUNTY CLERK & RECORDER'S ACCEPTANCE

This Supplemental Map was accepted for filing in the office of the Clerk & Recorder of Gunnison County, Colorado on this _____ day of _____, 2018, Reception No. _____, Time _____.

_____
Gunnison County Clerk & Recorder

PEARSON SURVEYING P.O. BOX 652 GUNNISON, CO 81230 970-641-2910 PROJECT # 08-4-3	DATE : 2/14/18 LATEST REVISION DATE : 2/19/18 SHEET 1 OF 3

SUPPLEMENTAL MAP OF THE BACK NINE CONDOMINIUMS, BUILDING B
GUNNISON COUNTY, COLORADO



SURVEY NOTES:

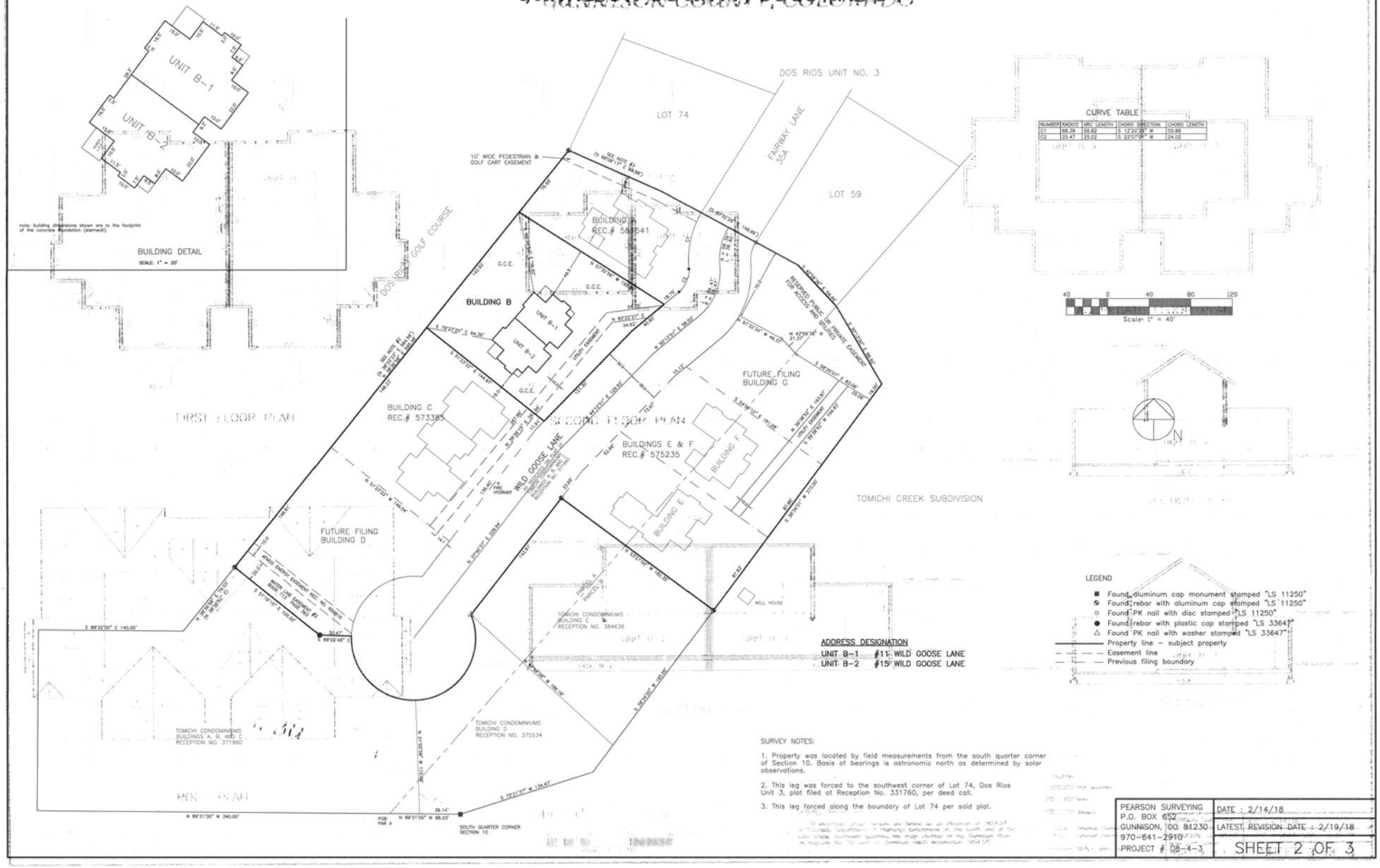
1. Property was located by field measurements from the south quarter corner of Section 10. Basis of bearings is astronomic north as determined by solar observations.

2. This leg was forced to the southwest corner of Lot 74, Dos Rios Unit 3, plat filed at Reception No. 331760, per deed call.

3. This leg forced along the boundary of Lot 74 per said plat.

PEARSON SURVEYING P.O. BOX 652 GUNNISON, CO. 81230 970-641-2910 PROJECT # 08-4-3	DATE : 2/14/18 LATEST REVISION DATE : 2/19/18 SHEET 2 OF 3

SUPPLEMENTAL MAP OF THE BACK NINE CONDOMINIUMS, BUILDING B
GUNNISON COUNTY, COLORADO



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PEARSON SURVEYING P.O. BOX 652 GUNNISON, CO. 81230 970-641-2910 PROJECT # 08-4-3	DATE : 2/14/18 LATEST REVISION DATE : 2/19/18 SHEET 2 OF 3

SUPPLEMENTAL DECLARATION

ESTABLISHING BUILDING B

OF

THE BACK NINE CONDOMINIUMS

THIS SUPPLEMENTAL DECLARATION is made effective the ____ day of _____, 2018 by West Elk Properties, LLC, a Colorado limited liability company ("Declarant").

RECITALS

A. On March 6, 2007, Declarant caused to be recorded the Map of The Back Nine Condominiums, Building C as Reception No. 573385 in the Gunnison County, Colorado records ("Condominium Map").

B. On March 6, 2007, Declarant caused to be recorded the Declaration Establishing The Back Nine Condominiums as Reception No. 573386 of the Gunnison County, Colorado records ("Declaration").

C. The Declaration created a planned community pursuant to the Colorado Common Interest Ownership Act, C.R.S. Sections 38-33.3-101 et. seq. ("Act") under the name of The Back Nine Condominiums ("Project").

D. Article 13 of the Declaration provides that Declarant may amend the Declaration to construct and plat as part of the Project up to twelve (12) Units in locations shown on the Map and/or as authorized by Gunnison County, Colorado ("County") by filing for record in the office of the Clerk and Recorder of Gunnison County, Colorado Supplemental Maps containing such information with respect to each Unit as the County requires.

E. Under Articles 13 and 15 of the Declaration, Declarant reserved, for twenty years following the recording of the Declaration the right to (a) complete or make any improvements as set forth on the Map or as required by the County, including all twelve (12) Units, (b) construct the project in phases, (c) record Supplemental Maps, (d) amend the Declaration and Maps, and (e) unilaterally amend the Declaration and any Map in connection with the exercise of any development rights or any other special development rights to the extent permitted in the Act.

NOW, THEREFORE, Declarant hereby subjects Building B to the terms and provisions of the Declaration and plats Units B-1 and B-2, The Back Nine Condominiums, as shown on the Supplemental Map of The Back Nine Condominiums, Building B, recorded as Reception No. _____ of the Gunnison County records and declares that each Unit in The Back Nine Condominiums shall have the interests in the general common elements, responsibility for common expenses and votes in the affairs of the association as set forth in the Table of Interests attached to the Declaration as Exhibit B.

EXECUTED as of the day and year first above written.

WEST ELK PROPERTIES, LLC,
a Colorado limited liability company

By: _____
Mark P. Lucas, Manager

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The foregoing Supplemental Declaration Establishing Buildings E & F of The Back Nine Condominiums was acknowledged before me this _____ day of _____, 2018, by Mark P. Lucas, Manager of West Elk Properties, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires:

_____
Notary Public