AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Resolution; A Resolution Approving Land Use Change

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Planning Commission Recommendation - Multi-Family units & allocation of units on Multi-Family Lots M1-1 through M1-15, Buckhorn Ranch Filing No. 2B

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:

Reveiwed by: GUNCOUNTY1\mhoyt Discharge Date: 11/30/2018 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 11/30/2018

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 10 mins

Agenda Date: 12/4/2018

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

November 27, 2018

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

FROM: **Neal Starkebaum**
Assistant Director

SUBJECT: **Planning Commission Recommendation - Multi-Family units & allocation of units on Multi-Family Lots M1-1 through M1-15, Buckhorn Ranch Filing No. 2B**
LUC-18-00044

This review is intended to clarify, reconcile and amend the allocation of the multi-family units and multi-family building type identified in previous County approvals for Lots M1-1 through M1-15, Lot M1, Buckhorn Ranch F#2, as formalized in a *Declaration of Covenants, Conditions and Restrictions for Lots M1-1 Through M1-15, Buckhorn Ranch Filing No. 2B,* executed by the owner and the Buckhorn Ranch Homeowners Association (HOA) October 31, 2018 (attached).

Attachments:
AFC Development request
AFC Development BIO
Buckhorn Ranch F#2B M1 Memo to file
Planning Commission Recommendation
Buckhorn Ranch Declaration of CCRs
Buckhorn Ranch – Unit Site Plan
BOCC Resolution

TO: **Board of County Commissioners**

FROM: **Planning Commission**

SUBJECT: **Recommendation - Buckhorn Ranch – Filing No. 2B, Multi Family Lot M-1 Multi-Family units & allocation of units on Multi-Family Lots M1-1 through M1-15, Buckhorn Ranch Filing No. 2B**
LUC-18-00044

PREPARED BY: **Neal Starkebaum, Assistant Director**

DATE: **November 16, 2018**

At its regular meeting on November 16, 2018, the Planning Commission unanimously approved the following Recommendation, as amended, moved by Vince Rogalski and seconded by Jack Diani:

Request:
Please see attached letter from AFC Development, LLC, represented by Martin Spencer, the new owner of Lots M1-1 through M1-15, Lot M1, Buckhorn Ranch Filing No. 2B.

Purpose:
This review is intended to clarify, reconcile and amend the allocation of the multi-family units and multi-family building type identified in previous County approvals for Lots M1-1 through M1-15, Lot M-1, Buckhorn Ranch F#2, as formalized in a *Declaration of Covenants, Conditions and Restrictions for Lots M1-1 Through M1-15, Buckhorn Ranch Filing No. 2B,* executed by the owner and the Buckhorn Ranch Homeowners Association (HOA) October 31, 2018 (attached), with recommendation to the Board of County Commissioners and memorialization by Board Resolution. 72 previously approved multi-family units in Lot M-1 are identified in this request for allocation and building type on fifteen multi-family lots, on each lot (Lots M1-1 through M1-15).

History:
Please see the attached Memo chronicling the history of County approvals for Lot M1 (Lots M1-1 through M1-15), Buckhorn Ranch F#2.

A short history of the property ownership, provided by the Buckhorn Ranch HOA, identified that the original property owner filed for Chapter 11 bankruptcy in 2014. Lots M1-1 through M1-15 were encumbered in the bankruptcy filing. All reorganization plans failed, and the Buckhorn Ranch HOA and the bank holding the note petitioned the court to convert to a Chapter 7 bankruptcy filing. That was approved and a trustee appointed by the Court took possession of the assets and the bank sold the majority of the lots, including Lots M1-1 through M1-15 to (Buckhorn Ranch at Crested Butte, LLC) The Patten Group in 2017. The Patten Group auctioned off the properties in 2018 and the lots were acquired by AFC Development, LLC (Martin Spencer).

Current:
AFC Development, LLC closed on the property October 31, 2018 and executed a *Declaration of Covenants, Conditions and Restrictions for Lots M1-1 Through M1-15, Buckhorn Ranch Filing No. 2B*, with the Buckhorn Ranch HOA. The *Declaration* states:

1. *USE RESTRICTIONS. The following use restrictions are hereby adopted by the Declarant, and approved by the Association, with regard to the density of multiple-family residences*

that may be built on each lot. These multiple-family residences (each, a "Unit") may be built in any configuration of duplex, triplex or four-plex, subject to the terms and provisions of the Buckhorn Declaration. The type of multiple-family residences shall be approved by the Association in conjunction with the Design Review Committee's review or any proposed multiple-family residence project on the lots listed below.

(a) Lot M1-1 shall be limited to four (4) Units.
(b) Lot M1-2 shall be limited to two (2) Units.
(c) Lot M1-3 shall be limited to four (4) Units.
(d) Lot M1-4 shall be limited to four (4) Units.
(e) Lot M1-5 shall be limited to two (2) Units.
(f) Lot M1-6 shall be limited to six (6) Units.
(g) Lot M1-7 shall be limited to six (6) Units.
(h) Lot M1-8 shall be limited to six (6) Units.
(i) Lot M1-9 shall be limited to six (6) Units.
(j) Lot M1-10 shall be limited to two (2) Units.
(k) Lot M1-11 shall be limited to two (2) Units.
(l) Lot M1-12 shall be limited to four (4) Units.
(m) Lot M1-13 shall be limited to eight (8) Units.
(n) Lot M1-14 shall be limited to eight (8) Units.
(o) Lot M1-15 shall be limited to eight (8) Units.

The attached site plan map shows the allocated units on each lot.

FINDINGS:

1. The County intends to clarify, reconcile and amend the allocation of building types identified in previous County approvals for Lots M1-1 through M1-15, Buckhorn Ranch F#2, by adoption of the *Declaration of Covenants, Conditions and Restrictions for Lots M1-1 Through M1-15, Buckhorn Ranch Filing No. 2B*, dated October 31, 2018.

2. Buckhorn Ranch Filing No. 2B, Lot M1 was approved as a multi-family tract, including a total of 104 multi-family units, pursuant to Board of County Commissioner's Resolution No. 1997-24, adopted May 6, 1997, which approved the Buckhorn Ranch Filing II Preliminary Plan, subject to all conditions imposed by the Planning Commission's Recommendation of July 12, 1996. The Planning Commission's Preliminary Plan Recommendation included Condition No. 7:
   Approval of this Filing II is specific to the numbers and types of units detailed in this Recommendation's Project Description, in the "Addendum to Preliminary Plan Submittal...Regarding Detail of M-1, M-2 and M-3," and as limited by the Declaration of Protective Covenants submitted as part of this Preliminary Plan.
   ***Lot M-1**: 72 multifamily units plus two buildings of 16 studio units each; the 72 multifamily units are to be located on 17 lots which are allocated as three (3) duplex lots, ten (10) four-plex lots, three (3) six-plex lots and one (1) eight-plex lot. Sizes will average between 1,000-1,400 with a maximum of 1,800 square feet.*

3. Buckhorn Ranch Filing No. 2B Final Plan, was approved by Board of County Commissioners, April 7, 2004 Resolution No. 2004-22**,** (Reception No. 541321) including Condition No. 3:
   Design and construction of multiple family units on Lots M-1, M-2 and M-3, require separate Land Use Change Permits. The concept of number of units and determination of compliance with land use policies and design guidelines have been considered as parts of the organic

whole of this overall subdivision development. As elements of this Filing 2b, development on the multiple-family lots will be considered "pending land use change applications" and will be reviewed pursuant to Section 1-106 A. Pending Land Use Change Permit Applications, of the 2001 Gunnison County Land Use Resolution. Single-family homes and duplexes shall initially be classified and reviewed as Administrative Review Projects.

4. Buckhorn Ranch Filing No. 2B Plat, platted Lot M-1 into 17 lots, April 7, 2004 (Reception No. 541321)

5. Stallion Park, Lots M1-16 and M1-17 was approved for 32 housing units, as eight (8) 4-plexes. Twenty four multi-family units have been constructed on Lots M1-16 & M1-17, in six four-plex buildings; the Apache, Estonian, Dartmoor, Bavarian, Cimarron, and Foxtrot Condominiums. Two additional four-plex buildings are currently under construction, for a total of 32-units.

7. 72 multi-family units are approved on Lots M1-1 through M-15. The proposal contemplates no change to the number of previously approved multifamily units for Lot M-1, Buckhorn Ranch Filing No. 2B.

8. The concept of the number of units and determination of compliance with land use policies and design guidelines has been considered as parts of the organic whole of the overall Buckhorn Ranch Filing No. 2B subdivision development.

9. The request provides for a reasonable development of the remaining multi-family lots in Lot M1, based upon the lot size differential, and allowance for flexibility in building types.

RECOMMENDATION:

The Gunnison County Planning Commission, having considered the submitted documents, history, plans, and exhibits, has reached the above Findings and recommends to the Board of County Commissioners that the *Declaration of Covenants, Conditions and Restrictions for Lots M1-1 Through M1-15, Buckhorn Ranch Filing No. 2B*, dated October 31, 2108 be adopted and the change in allocation of multi-family units and building types on Lots M1-1 through M1-15, Buckhorn Ranch F#2 be memorialized in a Board Resolution.

CONDITIONS:

1. No land use change permit is required for development on Lots M1-1 through M1-15, Buckhorn Ranch Filing No. 2B, so long as the development is consistent with the unit allocation identified in the *Declaration of Covenants, Conditions and Restrictions for Lots M1-1 Through M1-15, Buckhorn Ranch Filing No. 2B, October 31, 2018.*

2. The minimum building type configuration for any lot is a duplex.

AFC Development, LLC is a partnership between Bob Spencer (father) and Martin Spencer (son). The partnership was formed in 2018 for the purpose of conducting real estate business. Our desire is to have a positive impact on each community in which we are fortunate enough to operate. The first project that we have taken on is the multi family lots in Buckhorn Ranch. AFC took ownership of the lots on October 31, 2018.

Bob Spencer was born and raised in Fort Worth, TX. He has been in the development business most of his life. One of his first projects was the original development of the Crested Butte Club with Cathy Benson. Since then Bob has spent his time developing small residential communities in and around north central Texas. He is very excited to be getting involved in the Crested Butte area again.

Martin Spencer was also born in Fort Worth, TX, but was fortunate enough to spend several of his childhood years living in Crested Butte during the Crested Butte Club project. After moving back to Texas and graduating from Texas Tech University, he started a family and a cattle business. Although agriculture has been his main occupation, there have been numerous other businesses and partnerships in his career. Martin and his family will become full time residents of Crested Butte in December of this year to focus on the Buckhorn Ranch project.

Buckhorn Ranch Multi Family Lot Density Plan

Our desire is to establish a maximum allowable number of units to be built on each of the M1 lots within the Buckhorn Ranch Development. The current agreement is that the 15 lots are approved for a total of 72 units, but the units are not designated to certain lots and are restricted to a certain building configuration. After much thought and consideration we have come up with a plan that we believe will protect the integrity of the Buckhorn Ranch development as a whole. We would like to assign the following number of units per lot, and allow the configuration of each lot to be determined by the vertical developer of the lot. The final building configuration for each lot will be subject to the Buckhorn Ranch design guidelines and have to go through the review process.

We would like to restrict lots M1-13, 14 and 15 to a density of 8 units per lot. The units may be built in any configuration of duplex, triplex or four-plex. This will match the current density of the units that have already been built on lots 16 and 17, and will loosen up the density on the remaining lots. Our thought here is to let lots M1-13 – M1-17 be the higher density more affordable units in the overall development.

Lots M1-1 through M1-12 will be restricted to the following density:

Lot Number	Number of Units
M1-1	4
M1-2	2
M1-3	4
M1-4	4
M1-5	2
M1-6	6
M1-7	6
M1-8	6
M1-9	6
M1-10	2
M1-11	2
M1-12	4

These units will be built in any configuration of duplex, triplex or four-plex. Our desire in setting these limits on each lot is to ensure that we have control over the density of each lot as we sell them to individual builders. The design review board is in place to enforce building standards, and between this plan and the DRB I believe we will have a multi family neighborhood we can all be proud of.

Our attorney in agreement with the Buckhorn Ranch HOA has created an instrument that will establish the units per lot and we would like to have it filed of record. The instrument has been agreed upon and signed by the HOA president and AFC Development, LLC. We are now seeking the approval of the county so that we are all on the same page and can begin selling these lots. We are anxious to see these 72 units be built to hopefully provide some much needed housing for the community.

TO: **Memo to File**

SUBJECT: **Buckhorn Ranch – Filing 2B, Multi Family Tract M-1**
Number of Multi-Family units & allocation of Multi-Family Lots

PREPARED BY: **Neal Starkebaum, Assistant Director**

DATE: **October 24, 2018**

BUCKHORN RANCH FILING 2B – LOT M1

July 12, 1996
Planning Commission Approval – Preliminary Plan Recommendation
Including the following description of Multi-Family Lots:

"In a March 17, 1996, "Addendum to Preliminary Plan Submittal of September 10, 1995 to Gunnison County Regarding Detail of M-1, M-2, and M-3," the applicant detailed the following, relative to provision of affordable housing units:

Lot M-1: 72 multifamily units plus two buildings of 16 studio units each; the 72 multifamily units are to be located on 17 lots which are allocated as three (3) duplex lots, ten (10) four-plex lots, three (3) six-plex lots and one (1) eight-plex lot. Sizes will average between 1,000-1,400 with a maximum of 1,800 square feet.

May 6, 1997
BOCC Resolution No. 1997-24, approved Filing II Preliminary Plan, subject to all conditions imposed by the Planning Commission's Recommendation of July 12, 1996.
PC Recommendation - Condition No. 7:
"Approval of this Filing II is specific to the numbers and types of units detailed in this Recommendation's Project Description, in the "Addendum to Preliminary Plan Submittal...Regarding Detail of M-1, M-2 and M-3," and as limited by the Declaration of Protective Covenants submitted as part of this Preliminary Plan."

January 8, 1999
PC Approval - Recommendation Buckhorn Ranch Filing 2 Final Plan, **Condition No. 7.**
"Approval of this Filing II is specific to the numbers and types of units detailed in this Recommendation's Project Description, in the "Addendum to Preliminary Plan Submittal...Regarding Detail of M-1, M-2 and M-3," and as limited by the Declaration of Protective Covenants submitted as part of this Preliminary Plan."

April 7, 2004
BOCC Resolution No. 2004-22, (Reception No. 541321) Final Plan Approval - Buckhorn Ranch Filing 2b, including Condition No. 3:
"Design and construction of multiple family units on Lots M-1, M-2 and M-3, require separate Land Use Change Permits. The concept of number of units and determination of compliance with land use policies and design guidelines have been considered as parts of the organic whole of this overall subdivision development. As elements of this Filing 2b, development on the multiple-family lots will be considered "pending land use change applications" and will be reviewed pursuant to Section 1-106 A. Pending Land Use Change Permit Applications, of the 2001 Gunnison County Land Use Resolution. Single-family homes and duplexes shall initially

be classified and reviewed as Administrative Review Projects."

April 7, 2004
Buckhorn Ranch Plat – Filing 2b - approved by BOCC (Reception No. 541322)
Platted Lot M-1 into 17 lots

Stallion Park Condominiums - Lots M1 1-16 & M1 1-17

April 15, 2005
Stallion Park –
PC Recommendation– approved 32 affordable housing units, within Lots M1 1-16 and M1 1-17; eight (8) - 4-plexes.

August 1, 2006
BOCC approval – (Reception No. 567653) Condo Plat of Apache Building (4-units, one – 4-plex)

September 5, 2006
BOCC approval – (Reception No. 568785) Condo Plat of Estonian Building (4-units, one – 4-plex)

June 1, 2010
BOCC approval – (Reception No. 602908) Condo Plat of Dartmoor, Bavarian, Cimarron, Foxtrot Buildings (16-units, four – 4-plexes)

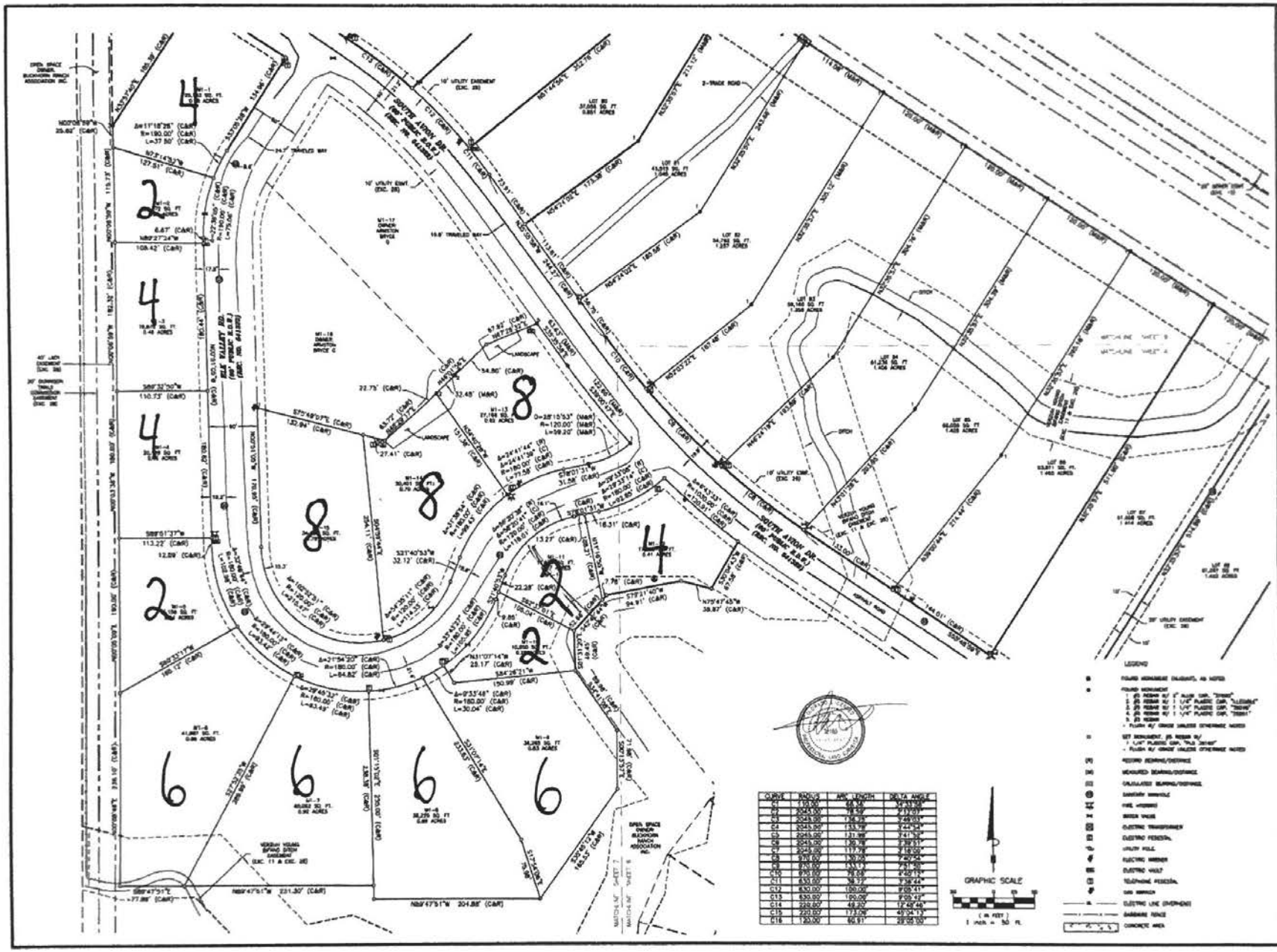
September 20, 2011
BOCC approval - Stallion Park Agreement Regarding Affordable Housing – (Reception No. 608846)
Stallion Park Condominiums
Conveyance of 4 Stallion Park Units to Gunnison County.

September 30, 2011
BOCC approval - Stallion Park – (Reception No. 608845) Partial Release of Affordable Housing Deed Restrictions, released all Units in the Dartmoor, Bavarian, Cimarron, Foxtrot Buildings, and Units 102, 201 and 201 in Apache Building, from the Affordable Housing Deed Restrictions.

Lot M-1

April 7, 2004
BOCC approval - Restrictive Covenant – Brush Creek Airport/BOCC – (Reception No. 541324)
Phase 5 - No sale of Lots M1-1 thru M1-15.

December 6, 2005
BOCC approval - Release of Restrictive Covenant – Brush Creek Airport/BOCC - (Reception No. 561273)
Release of Phase 5 – Lots M1-1 thru M1-15 from Restrictive Covenant.



CURVE	RADIUS	ARC LENGTH	DELTA ANGLE
C1	110.00	68.94'	35°53'39"
C2	2045.00'	98.58'	2°17'07"
C3	2045.00'	116.26'	3°46'01"
C4	2045.00'	133.78'	3°44'24"
C5	2045.00'	131.96'	3°41'34"
C6	2045.00'	130.76'	3°39'51"
C7	2045.00'	117.78'	3°18'00"
C8	810.00'	130.03'	7°40'04"
C9	810.00'	133.17'	7°51'39"
C10	810.00'	79.68'	4°42'17"
C11	830.00'	58.73'	3°58'44"
C12	830.00'	100.00'	6°55'41"
C13	830.00'	109.00'	7°32'12"
C14	220.00'	48.20'	12°48'46"
C15	220.00'	173.09'	45°04'13"
C16	120.00'	60.91'	29°06'00"

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

LOTS M1-1 THROUGH M1-15, BUCKHORN RANCH FILING NO. 2B

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this **"Declaration"**) is made this 31st day of October, 2018, by AFC Development, LLC (hereinafter collectively referred to as **"Declarant"**).

RECITALS

A. Declarant is the owner of certain real property (the **"Lots"**) situated in Gunnison County, Colorado, all as more specifically described as follows:

> LOTS M1-1, M1-2, M1-3, M1-4, M1-5, M1-6, M1-7, M1-8, M1-9, M1-10, M1-11, M1-12, M1-13, M1-14 AND M1-15, BUCKHORN RANCH FILING NO. 2B, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 26, 2004 UNDER NO. 541322, COUNTY OF GUNNISON, STATE OF COLORADO.

B. The Lots are (i) part of a development known as Buckhorn Ranch and (ii) subject to that certain Amended and Restated Declaration of Protective Covenants of Buckhorn Ranch recorded on October 27, 2017, at Reception No. 649955 in the official public records of the Gunnison County Clerk and Recorders Office, Gunnison County, Colorado (the **"Buckhorn Declaration"**), and the covenants, restrictions, terms and other provisions contained therein.

C. Terms used in this Declaration, and not otherwise defined herein, shall be defined by reference to Article II of the Buckhorn Declaration.

D. The Lots are Multiple-Family Lots.

E. The Buckhorn Declaration provides, among other things, that the Multiple-Family Lots shall be used exclusively for multiple-family residences (including townhouses, condominiums, cooperatives and apartments) and that the total number of multiple-family residences shall not exceed 104.

F. As of the date of this Declaration, the total number of multiple-family residences that may be constructed on the Lots is 72.

G. Declarant has deemed it desirable, for the purpose of protecting the value and integrity of the Lots and Buckhorn Ranch, and furthering a plan for the improvement, sale and ownership of the Lots, to allocate among the individual Lots the total number and type of multiple-family residences that can be constructed on the Lots.

H. To accomplish such purposes, Declarant will hereafter hold and convey title to all of the Lots subject to certain protective covenants, conditions and restrictions hereinafter set forth.

I. Pursuant to the Buckhorn Declaration, the type and number of multiple-family residences on each Multiple-Family Lot shall be approved by Gunnison County, Colorado, and the Buckhorn Ranch Association, Inc., a Colorado nonprofit corporation (Association) acting through its Board of Directors and the Design Review Committee. The Association and the Design Review Committee make no warranty or representation that the within Use Restrictions set forth below shall be approved by Gunnison County, Colorado. Declarant acknowledges and agrees that Declarant is responsible for obtaining such approval therefrom. In the event the below Use Restrictions are not approved by Gunnison County, this Declaration shall become null and void.

NOW, THEREFORE, Declarant hereby covenants, agrees and declares that all of its interest as the same may from time to time appear in the Lots shall be held and conveyed subject to the following covenants, conditions, and restrictions which are hereby declared to be for the benefit of said interests in the Lots, and the owners of said interests, the Association, the Owners and their successors and assigns. These covenants, conditions, and restrictions shall run with said interests and shall be binding upon all parties having or acquiring any right or title in said interests or any part thereof, and shall inure to the benefit of each owner thereof and are imposed upon said interests and every part thereof as a servitude in favor of each and every of said interests as the dominant tenement or tenements.

1. USE RESTRICTIONS. The following use restrictions are hereby adopted by the Declarant, and approved by the Association, with regard to the density of multiple-family residences that may be built on each Lot. These multiple-family residences (each, a **"Unit"**) may be built in any configuration of duplex, triplex or four-plex, subject to the terms and provisions of the Buckhorn Declaration. The type of multiple-family residences shall be approved by the Association in conjunction with the Design Review Committee's review of any proposed multiple-family residence project on the lots listed below.

(a) Lot M1-1 shall be limited to four (4) Units.
(b) Lot M1-2 shall be limited to two (2) Units.
(c) Lot M1-3 shall be limited to four (4) Units.
(d) Lot M1-4 shall be limited to four (4) Units.
(e) Lot M1-5 shall be limited to two (2) Units.
(f) Lot M1-6 shall be limited to six (6) Units.
(g) Lot M1-7 shall be limited to six (6) Units.
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(i) Lot M1-9 shall be limited to six (6) Units.
(j) Lot M1-10 shall be limited to two (2) Units.
(k) Lot M1-11 shall be limited to two (2) Units.
(l) Lot M1-12 shall be limited to four (4) Units.
(m) Lot M1-13 shall be limited to eight (8) Units.
(n) Lot M1-14 shall be limited to eight (8) Units.
(o) Lot M1-15 shall be limited to eight (8) Units.

2. GENERAL PROVISIONS

A. Controlling Document. The Lots are subject to the Buckhorn Declaration; however, as between the Buckhorn Declaration and the terms of this Declaration as they pertain to the Lots only, the terms contained in this Declaration shall control.

B. Enforcement. The Declarant, Association and any Owner shall have the right to enforce by proceedings at law or in equity, all covenants, conditions and restrictions, now or hereafter imposed by the provisions of this Declaration or any amendment hereto, including the right to prevent the violation of any such covenants, conditions and restrictions, and the right to recover damages or other costs for such violation.

C. No Waiver. Failure by Declarant, the Association or any Owner to enforce any covenant, condition, or restriction herein contained, in any certain instance or on any particular occasion shall not be deemed a waiver of such right on any such future breach of the same or any other covenant, condition or restriction.

D. Cumulative Remedies. All rights, options and remedies of Declarant, the Association and the Owners under this Declaration are cumulative, and not one of them shall be exclusive of any other, and Declarant, the Association and the Owners shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law, whether or not stated in this Declaration.

E. Severability. Invalidation of any one or a portion of these covenants, conditions, or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

F. Covenants to Run with the Land; Term. The covenants, conditions and restrictions of this Declaration shall run with and bind the Lots and shall inure to the benefit of and be enforceable by the Association, any Owner, and their respective legal representatives, heirs, successors and assigns, in perpetuity.

G. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose. The Section and subsection headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

H. Nuisance. The result of every act or omission, whereby any provision, covenant, condition, or restriction contained in this Declaration is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and
every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by any Owner or the Association. Such remedies shall be deemed cumulative and not exclusive.

I. Attorneys' Fees. In the event action is instituted to enforce any of the provisions in this Declaration, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs of such suit.

J. Effect of Declaration. This Declaration is made for the purposes set forth in the Recitals to this Declaration and Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances and regulations applicable thereto.

IN WITNESS WHEREOF, Declarant and Association have executed this instrument the day and year first herein above written.

DECLARANT:
AFC Development, LLC

Robert M. Spencer

Robert M. Spencer, Authorized Member

ASSOCIATION:

Buckhorn Ranch Association, Inc
By: Frank Woodruff
Frank Woodruff, President

THE STATE OF TEXAS §
§
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 31st day of October, 2018, by **Robert M. Spencer,** as Authorized Member of AFC Development, LLC, on behalf of such corporation.

Frank Duisenberg

PAULA QUISENBERRY
NOTARY PUBLIC
STATE OF TEXAS
MY COMM. EXP. 9/2/22
NOTARY ID 241125-0

NOTARY PUBLIC, STATE OF Texas

Print Name: Paula Quisenberry
Commission Expires: 9-2-22

THE STATE OF Texas §
§
COUNTY OF Bexar §

This instrument was acknowledged before me on the 5 day of ~~October~~ November, 2018, by Frank Woodruff, as President of Buckhorn Ranch Association, Inc., on behalf of such corporation.

CHRISTOPHER DELEON
Notary Public, State of Texas
Comm. Expires 05-16-2022
Notary ID 129821745

NOTARY PUBLIC, STATE OF Texas

Print Name: Christopher DeLeon
Commission Expires: 5/16/2022

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY
RESOLUTION NO. 18-___

A RESOLUTION APPROVING LAND USE CHANGE PERMIT NO. LUC-2018-00044 A LAND USE CHANGE PERMIT FOR AFC DEVELOPMENT, LLC MULTI-FAMILY UNIT ALLOCATION AND BUILDING TYPE LOTS M1-1 THROUGH M1-15, LOT M1, BUCKHORN RANCH FILING No. 2B

WHEREAS, AFC Development, LLC, represented by Martin Spencer, has requested clarification of development restrictions on multi-family lots M1-1 through M1-15, Lot M1 Buckhorn Ranch Filing No. 2B; and

WHEREAS, this Resolution is intended to clarify, reconcile and amend the allocation of the multi-family units and multi-family building type identified in previous County approvals for Lots M1-1 through M1-15, Lot M1, Buckhorn Ranch Filing No. 2B, as formalized in a *Declaration of Covenants, Conditions and Restrictions for Lots M1-1 Through M1-15, Buckhorn Ranch Filing No. 2B,* executed by the owner and the Buckhorn Ranch Homeowners Association (HOA) October 31, 2018 (attached).

AND WHEREAS, the request to clarify the allocation and building type of multi-family units on Lots M1-1 through M1-15, Lot M1, Buckhorn Ranch Filing No. 2B, was reviewed by the Planning Commission, with a unanimous Recommendation of approval to the Board of County Commissioners, with certain Findings and Conditions:

FINDINGS:

1. The County intends to clarify, reconcile and amend the allocation of building types identified in previous County approvals for Lots M1-1 through M1-15, Buckhorn Ranch Filing No. 2B, by adoption of the *Declaration of Covenants, Conditions and Restrictions for Lots M1-1 Through M1-15, Buckhorn Ranch Filing No. 2B*, dated October 31, 2018.

2. Buckhorn Ranch Filing No. 2B, Lot M1 was approved as a multi-family tract, including a total of 104 multi-family units, pursuant to Board of County Commissioner's Resolution No. 1997-24, adopted May 6, 1997, which approved the Buckhorn Ranch Filing II Preliminary Plan, subject to all conditions imposed by the Planning Commission's Recommendation of July 12, 1996. The Planning Commission's Preliminary Plan Recommendation included Condition No. 7:

   Approval of this Filing II is specific to the numbers and types of units detailed in this Recommendation's Project Description, in the "Addendum to Preliminary Plan Submittal...Regarding Detail of M-1, M-2 and M-3," and as limited by the Declaration of Protective Covenants submitted as part of this Preliminary Plan.

   ***Lot M-1**: 72 multifamily units plus two buildings of 16 studio units each; the 72 multifamily units are to be located on 17 lots which are allocated as three (3) duplex lots, ten (10) four-plex lots, three (3) six-plex lots and one (1) eight-plex lot. Sizes will average between 1,000-1,400 with a maximum of 1,800 square feet.*

3. Buckhorn Ranch Filing No. 2B Final Plan, was approved by Board of County Commissioners, April 7, 2004 Resolution No. 2004-22**,** (Reception No. 541321) including Condition No. 3:

   Design and construction of multiple family units on Lots M-1, M-2 and M-3, require separate Land Use Change Permits. The concept of number of units and determination of compliance with land use policies and design guidelines have been considered as parts of the organic whole of this overall subdivision development. As elements of this Filing 2b, development on the multiple-family lots will be considered "pending land use change applications" and will be reviewed pursuant to Section 1-106 A. Pending Land Use Change Permit Applications, of the 2001 Gunnison County Land Use Resolution. Single-family homes and duplexes shall initially be classified and reviewed as Administrative Review Projects.

4. Buckhorn Ranch Filing No. 2B Plat, platted Lot M1 into 17 lots, April 7, 2004 (Reception No. 541321).

5. Stallion Park, Lots M1-16 and M1-17 was approved for 32 housing units, as eight (8) 4-plexes. Twenty four multi-family units have been constructed on Lots M1-16 & M1-17, in six four-plex buildings; the Apache, Estonian, Dartmoor, Bavarian, Cimarron, and Foxtrot Condominiums. Two additional four-plex buildings are currently under construction, for a total of 32-units.

7. 72 multi-family units are approved on Lots M1-1 through M-15. The proposal contemplates no change to the number of previously approved multifamily units for Lot M1, Buckhorn Ranch Filing No. 2B.

8. The concept of the number of units and determination of compliance with land use policies and design guidelines has been considered as parts of the organic whole of the overall Buckhorn Ranch Filing No. 2B subdivision development.

9. The request provides for the reasonable development of the remaining multi-family lots in Lot M1, based upon the lot size differential, and allowance for flexibility in building types.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that Land Use Change Permit No. 2018-00044, AFC Development LLC, is approved with the following conditions:

1. A land use change permit is not required for development on Lots M1-1 through M1-15, Buckhorn Ranch Filing No. 2B, so long as the development is consistent with the unit allocation identified in the *Declaration of Covenants, Conditions and Restrictions for Lots M1-1 Through M1-15, Buckhorn Ranch Filing No. 2B, October 31, 2018.*

2. The minimum building type configuration for any lot is a duplex.

3. Prior to recordation of the Board Resolution, the applicant shall record the *Declaration of Covenants, Conditions and Restrictions for Lots M1-1 Through M1-15, Buckhorn Ranch Filing No. 2B, October 31, 2018,* with the Office of the Clerk and Recorder of Gunnison County.

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 passed on this 4th day of December, 2018.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

_____	_____	_____
Phil Chamberland,	Jonathan Houck,	John Messner,
Chairperson	Commissioner	Commissioner

ATTEST:

_____
Gunnison County Clerk and Recorder