AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item:

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

First Amended Plat of Elcho IV Townhomes to establish two newly constructed units in the complex

Fiscal Impact: none

Submitted by: Hillary Seminick **Submitter's Email Address:** hseminick@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 3/6/20

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 3/6/2020 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 3/6/2020

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

Agenda Date: 3/17/2020

Revised April 2015

Gunnison County, CO
Community Development Department
221 N. Wisconsin St. Ste. D, Gunnison, CO 81230
Phone: (970) 641-0360
Website: www.gunnisoncounty.org
Email: planning@gunnisoncounty.org

To: Gunnison County Board of County Commissioners

From: Hillary Seminick, AICP, Senior Planner, Community Development Department

Date: March 4, 2020

Re: **LUC-20-00004, First Amended Plat of Elcho IV Townhomes**

The Applicant, Elcho IV Townhomes, LLC, represented by Jacob A. With, PC, Law of the Rockies; has submitted a request for a plat amendment to the Townhome Plat of Elcho IV Townhomes recorded on July 6th, 2018 at Reception No. 654249 (Original Plat). The proposal is located at 7 Timberline Way, Crested Butte, 81224; legally described as Lots 11 and 12, Block 2, Crested Butte South – First Filing, According to the Plat Recorded August 26, 1970 at Reception No. 2880978 in the Records of Gunnison County, Colorado.

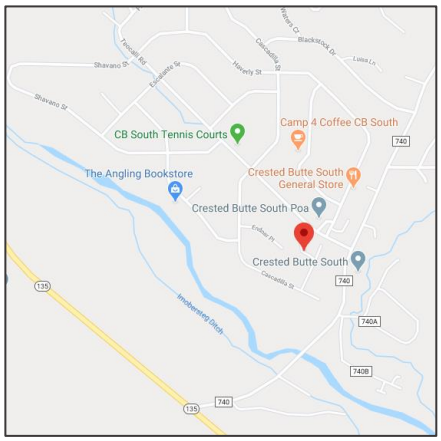


Figure 1. Project Location

The Original Plat established Units 3 and 4 and reserved Units 1 and 2, and noted both as "Future Development". Units 1 and 2 have since been developed and the Applicant requests approval of the First Amended Plat of Elcho IV Townhomes (Amended Plat) to reflect the two newly developed units. Figure 2 depicts the Original Plat and Figure 3 depicts the Amended Plat, no other substantive changes are proposed. The Original and Amended Plats are included as Exhibits A and B to this memo, respectively.

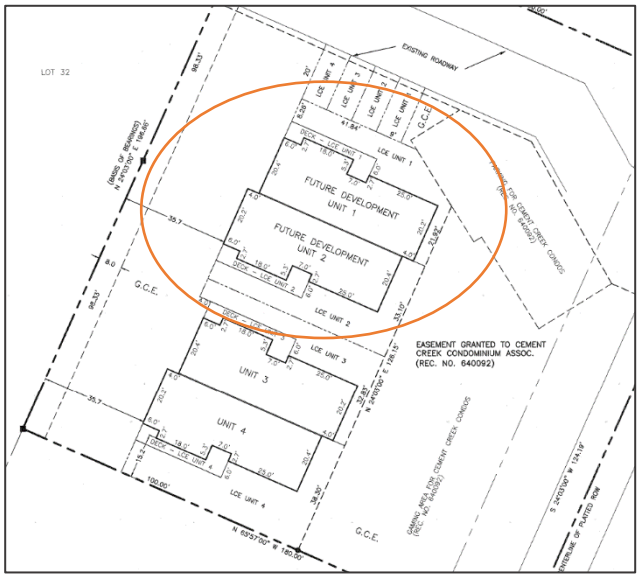


Figure 2. Original Plat, Future Development Units Indicated by Orange Circle

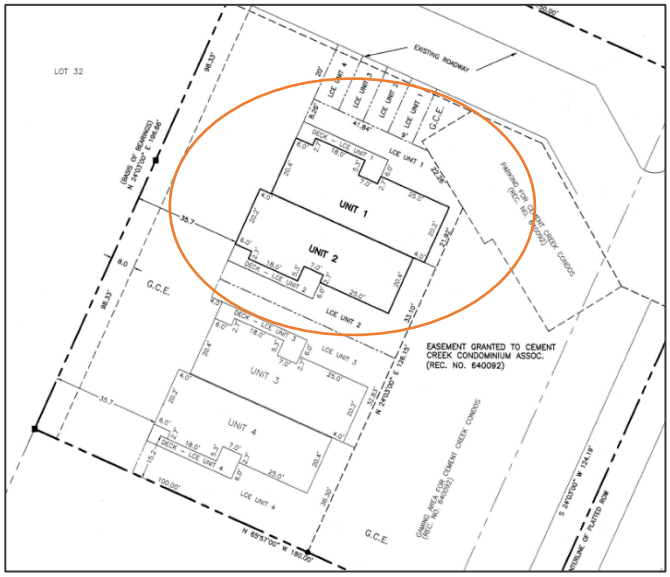


Figure 3. Amended Plat, Establishing Two Units Indicated by Orange Circle

The Crested Butte South Property Owners Association approved both the development and the establishment of the townhome designation. The Amended Plat has been reviewed and approved to form by the County Attorney.

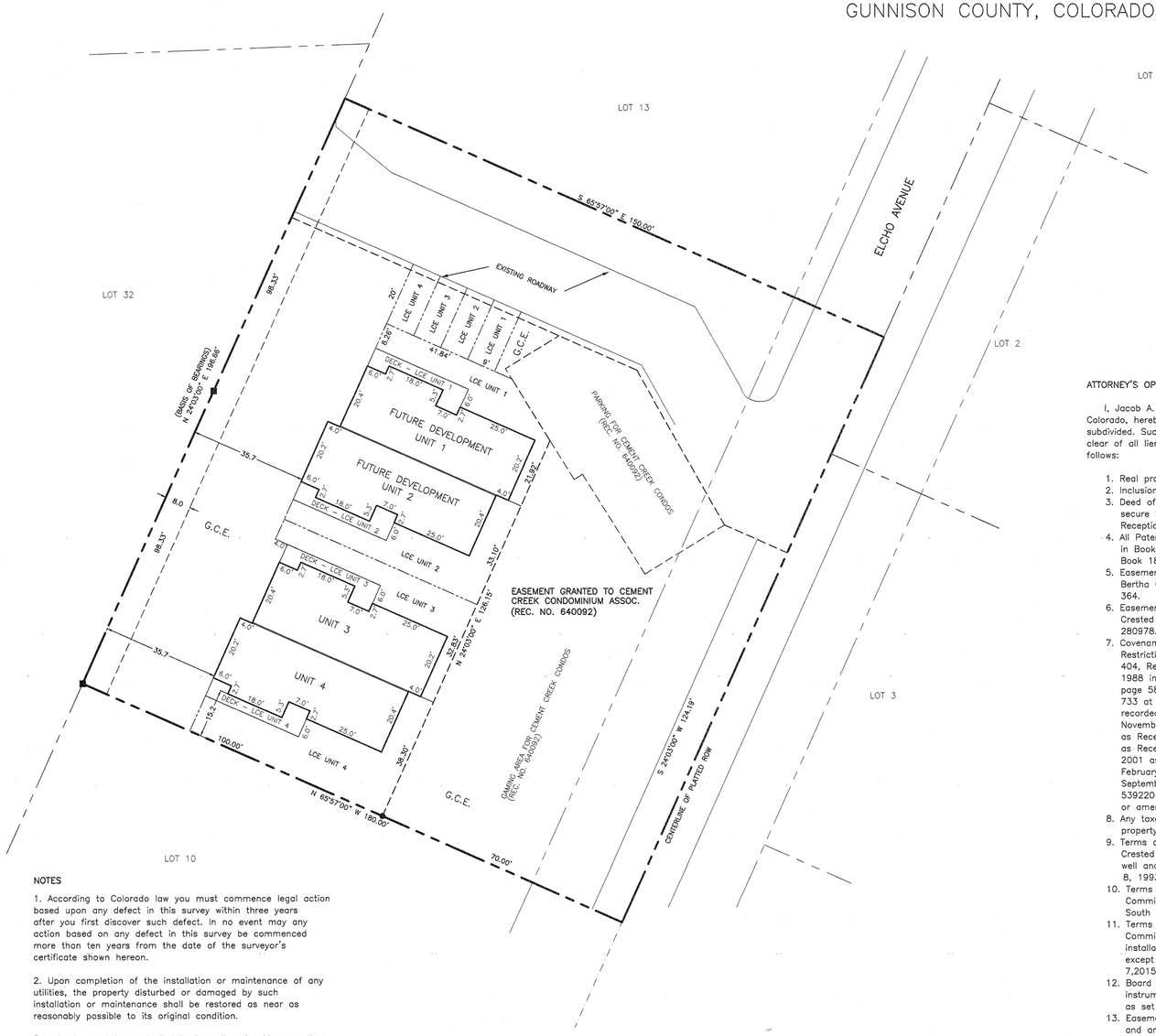
The Elcho IV Townhomes Declaration of Protective Covenants, recorded on July 6, 2018 at Reception No. 654250 will be amended and restated by the First Amendment to the Elcho IV Townhomes Declaration of Protective Covenants. This document will change the covenants in that they will now refer to the newly Amended Plat of the Elcho Townhomes. No other substantive changes are proposed to the covenants. The County is not a party to this agreement.

The full application can be viewed on Citizen Access at *https://www.gunnisoncounty.org/436/Permit-Database*. Exhibit B provides instructions for access.

/S/ Hillary Iza Seminick, AICP

Exhibits
A. Townhome Plat of Elcho IV Townhomes (Original Plat)
B. First Amended Plat of Elcho IV Townhomes (Amended Plat)
C. Public Access Instructions

TOWNHOME PLAT OF ELCHO IV TOWNHOMES
within LOTS 11 & 12, BLOCK 2, CRESTED BUTTE SOUTH – FIRST FILING GUNNISON COUNTY, COLORADO



NOTES

1. 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.

2. 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.

3. 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 Elcho IV Townhomes Association or the individual unit owner.

4. C.R.S. Section 35–46–101 et seq. requires The Elco IV Townhomes Association to construct and maintain fencing to keep livestock off of The Elco IV Townhomes property.

5. 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.

6. Any person who acquires any interest in any of the real property platted on this Townhome Plat shall be deemed to have accepted the terms, conditions, exceptions, restrictions, limitations and definitions set forth herein and in the Townhome Declaration for Elcho IV Townhomes recorded as Reception No. 654250.

7. The Elcho IV Townhomes are not within a designated floodplain, nor within an area designated as a geologic or wildfire hazard.

LEGEND

- Found rebar with plastic cap "LS 5239"
- Found rebar with plastic cap "LS 34979"
- Fence
- Easement boundary

BOARD OF COUNTY COMMISSIONERS APPROVAL

The within plat of Elcho IV Townhomes is approved this 3rd day of July, A.D. 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 lot owners and not by Gunnison County or any other public agency.

Phil Chamberlard
Chairman

Joan M. Bare, Deputy
ATTEST:
County Clerk

GUNNISON COUNTY SEAL COLORADO

ATTORNEY'S OPINION

I, Jacob A. With, an attorney at law duly licensed to practice in the State of Colorado, hereby certify that I have examined title to all lands herein dedicated and subdivided. Such title is held in the name of Elcho IV Townhomes LLC and is free and clear of all liens, defects, encumbrances, restrictions and reservations except as follows:

1. Real property taxes for the current and future years, a lien not yet due and payable.
2. Inclusion of the property within any special taxing district.
3. Deed of Trust from Elcho IV Townhomes LLC for the benefit of Bank of the West to secure $621,400.00, dated November 13, 2017, recorded November 20, 2017 as Reception No. 650372.
4. All Patent reservations as reserved in United States Patent(s) recorded May 19, 1898 in Book 115 at page 303, August 12, 1901 in Book 101 at page 248, May 22,1918 in Book 184 at page 136, and October 6,1922 in Book 184 at page 353.
5. Easement and right of way for cattle driveway reserved by Robert J. Oversteg and Bertha Oversteg in Warranty Deed recorded October 1, 1936 in Book 245 at page 364.
6. Easements, exceptions, conditions, dedications, reservations, and notes on the Plat of Crested Butte South – First Filing recorded on August 26, 1970 at Reception No. 280978.
7. Covenants, conditions terms, and restrictions as set forth in Covenants and Restrictions of Crested Butte South recorded August 26, 1970 in Book 420 at page 404, Resolutions recorded January 21, 1983 in Book 589 at page 304, December 8, 1988 in Book 661 at page 284, April 27, 1990 in Book 677 at page 578, Book 677 at page 581, November 20, 1990 in Book 684 at page 901, October 22, 1993 in Book 733 at page 740, December 15, 1994 in Book 757 at page 223, in Amendments recorded May 1, 1996 in Book 782 at page 202, page 203, page 204, page 205, November 22, 1996 as Reception No. 472225, Resolutions recorded March 27, 1998 as Reception No. 482581, April 30, 1998 as Reception No. 483318, October 19,1998 as Reception No. 487930, November 8, 1999 as Reception No. 497644, March 22, 2001 as Reception No. 509429, September 25, 2001 as Reception No. 514482, February 5, 2002 as Reception No. 517978, June 23, 2003 as Reception No. 531851, September 25, 2003 as Reception No. 535203, February 23, 2004 as Reception No. 539220 and July 20, 2004 as Reception No. 544256; together with any modifications or amendments thereto,
8. Any taxes, fees, assessments, or charges by reason of the inclusion of the subject property within the Crested Butte South Metropolitan District.
9. Terms and conditions as contained in Resolution of the Board of Directors of the Crested Butte South Metropolitan District governing the installation of individual well and sewage disposal systems within the boundaries of the district, recorded June 8, 1993 in Book 725 at page 218.
10. Terms and conditions as contained in Resolution of the Board of County Commissioners of the County of Gunnison, Colorado, designating Crested Butte South as a Special Area, recorded September 3, 2008 as Reception No. 586264.
11. Terms and conditions as contained in Resolution of the Board of County Commissioners of the County of Gunnison, Colorado, completing the extension and installation of water and sewer mains to all filings in Crested Butte South subdivision except for the north half of Block 6, Filing #2, Crested Butte South, recorded January 7,2015 as Reception No. 630782.
12. Board of County Commissioners Resolution No. 23 Series 1989 as set forth in instrument recorded August 2, 1989 in Book 668 at page 869 and No.1 0 Series 1990 as set forth in instrument recorded June 14, 1990 in Book 679 at page 151.
13. Easement as set forth in instrument recorded May 31, 1990 in Book 678 at page 530; and any and all assignments thereof or interests therein.
14. Cement Creek Condominium Association, Inc. Notice of Claimed Rights as set forth in instrument recorded March 11, 2014 as Reception No. 625840 and Cement Creek Condominium Association, Inc.
15. Release of Notice of Claimed Rights as set forth in instrument recorded July 29, 2015 as Reception No. 634403.
16. Restrictive Covenant as set forth in instrument recorded March 31, 2006 as Reception No. 564090 and Termination recorded June 14,2016 as Reception No. 639896.
17. Easement Agreement as set forth in instrument recorded June 13, 2016 as Reception No. 639895 and rerecorded June 14,2016 as Reception No. 640092; and any and all assignments thereof or interests therein.
18. Cluster Agreement recorded May 22, 2017 as Reception No. 646556.
19. Declaration of protective covenants recorded at Reception No. 654250.
20. All matters shown on this plat.

This opinion does not address instruments affecting title but not recorded after the date of this opinion.

Dated: January 4, 2018

Jacob A. With, Esq., Reg. No. 40546

DEDICATION

Elcho IV Townhomes LLC, and Bank of the West, being the owner and mortgagee the land described as follows:

Lots 11 and 12, Crested Butte South – First Filing, according to the Plat recorded August 26, 1970 at Reception No. 280978 in the records of Gunnison County, Colorado,

in Gunnison County, Colorado, under the name of ELCHO IV TOWNHOMES has laid out, platted and/or subdivided the same as shown on this plat and do hereby dedicate to the unit owners and their guests, but not to the public at large, the common right to at large the streets, alleys, roads and other public areas as shown hereon and herby dedicate those portions of land labeled as easements for the installation and maintenance of public utilities as shown hereon.

ELCHO IV TOWNHOMES, LLC

In witness whereof Ken Buck has subscribed his name this 20 day of June, A.D. 2018.

By _____
Ken Buck
As Manager

State of Colorado)
)ss.
County of Gunnison)

The foregoing instrument was acknowledged before me this 20th day of June, A.D. 2018, by Ken Buck.

My commission expires 6/25/2021.

Witness my hand and official seal.

AGNES KRONERAFF
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID #20134039223
My Commission Expires June 25, 2021

Notary Public

BANK OF THE WEST

In witness whereof Heidi Hahn has subscribed his/her name this 20th day of June, A.D. 2018.

By Heidi Hahn
As Vice President

State of Colorado)
)ss.
County of Gunnison)

The foregoing instrument was acknowledged before me this 20th day of June, A.D. 2018, by Heidi Hahn.

My commission expires June 15, 2019.

Witness my hand and official seal.

JACOB KAULIKE
Notary Public
State of Colorado
Notary ID 20154023426
My Commission Expires Jun 15, 2019

Notary Public

SURVEYOR'S CERTIFICATE

I, Timothy E. Pearson, a registered land surveyor in the State of Colorado, certify that this plat and the survey referred to herein were made under my direction and control and that both are true and correct to the best of my knowledge.

Dated this 20th day of June, A.D. 2018.

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR

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

Gunnison County, CO
7/6/2018 11:49:12 AM
305
654249
Page 1 of 1
R 13.00 D [fee:doc]

GUNNISON COUNTY CLERK AND RECORDER'S ACCEPTANCE

This plat was accepted for filing in the office of the Clerk and Recorder of Gunnison County, Colorado on this 10th day of July, A.D. 2018, Reception Number 654249, Time 11:49 AM
Date 06-06-2018.

Joan M. Bare, Deputy
County Clerk

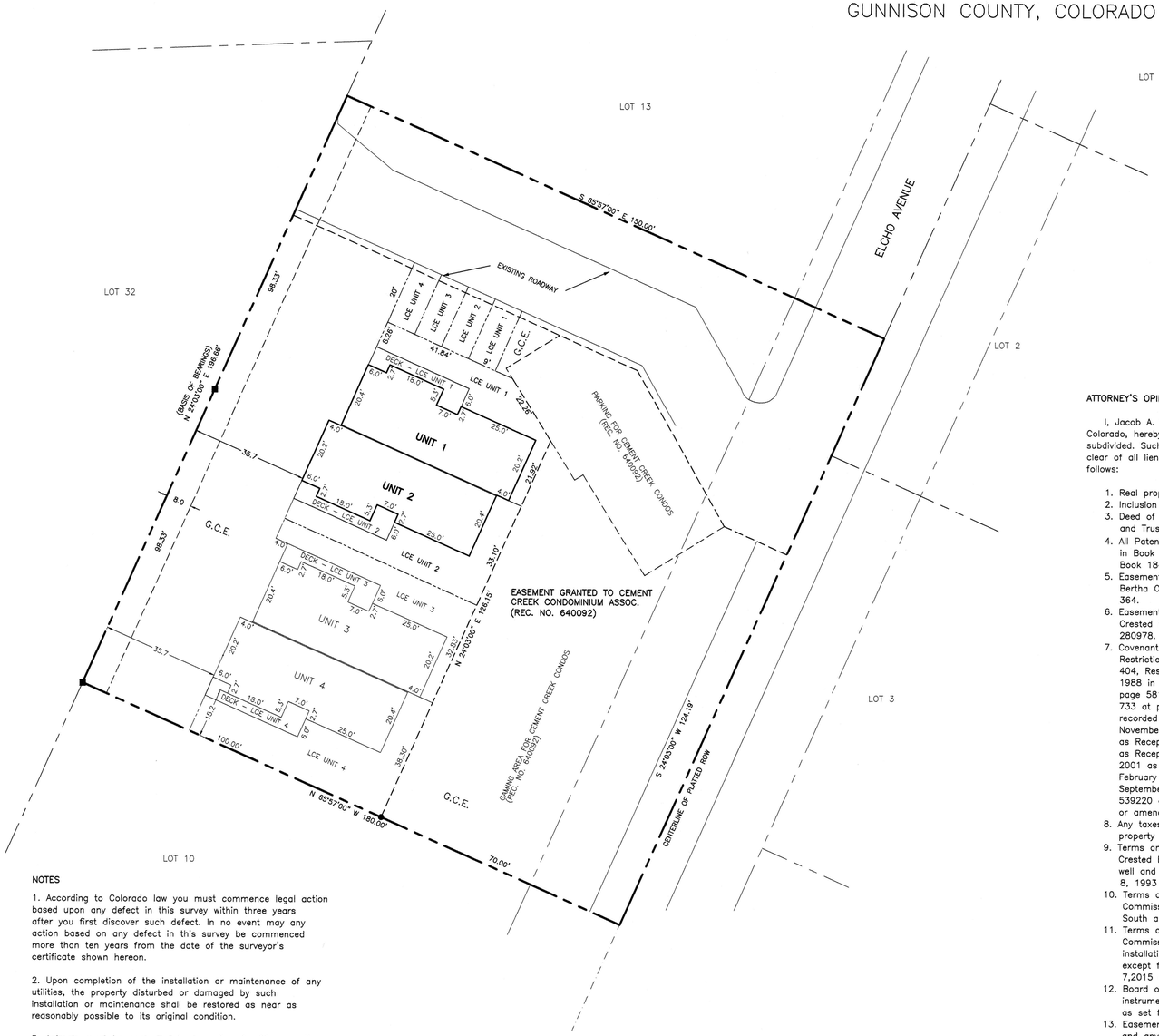
GUNNISON COUNTY SEAL COLORADO

ELCHO IV TOWNHOMES
within LOTS 11 & 12, BLOCK 2, CRESTED BUTTE SOUTH – FIRST FILING GUNNISON COUNTY, COLORADO
STREET ADDRESS: 7 TIMBERLINE WAY

PEARSON SURVEYING P.O. BOX 652 GUNNISON, CO 81230 970–641–2910 PROJECT # 18–4–4	DATE : 3/26/18 LATEST REVISION DATE : 6/4/18 SHEET 1 OF 1

FIRST AMENDED PLAT OF ELCHO IV TOWNHOMES

within LOTS 11 & 12, BLOCK 2,
CRESTED BUTTE SOUTH – FIRST FILING
GUNNISON COUNTY, COLORADO



NOTES

1. 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.

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4. C.R.S. Section 35–46–101 et seq. requires The Elco IV Townhomes Association to construct and maintain fencing to keep livestock off of The Elco IV Townhomes property.

5. 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.

6. Any person who acquires any interest in any of the real property platted on this Townhome Plat shall be deemed to have accepted the terms, conditions, exceptions, restrictions, limitations and definitions set forth herein and in the Townhome Declaration for Elcho IV Townhomes recorded as Reception No. 654250 as amended.

7. The Elcho IV Townhomes are not within a designated floodplain, nor within an area designated as a geologic or wildfire hazard.

LEGEND

- ■ Found rebar with plastic cap "LS 5239"
- ● Found rebar with plastic cap "LS 34979"
- —×—×— Fence
- — — — Easement boundary

20 0 20 40
Scale: 1" = 20'

N

BOARD OF COUNTY COMMISSIONERS APPROVAL

The within plat of First Amended Plat of Elcho IV Townhomes is approved this _____day of _____, A.D. 2020 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 lot owners and not by Gunnison County or any other public agency.

_____
Chairman

_____
ATTEST:
County Clerk

ATTORNEY'S OPINION

I, Jacob A. With, an attorney at law duly licensed to practice in the State of Colorado, hereby certify that I have examined title to all lands herein dedicated and subdivided. Such title is held in the name of Elcho IV Townhomes LLC and is free and clear of all liens, defects, encumbrances, restrictions and reservations except as follows:

1. Real property taxes for the current and future years, a lien not yet due and payable.
2. Inclusion of the property within any special taxing district.
3. Deed of Trust from Elcho IV Townhomes LLC for the benefit of The Gunnison Bank and Trust Company recorded at Reception No. 661833.
4. All Patent reservations as reserved in United States Patent(s) recorded May 19, 1898 in Book 115 at page 303, August 12, 1901 in Book 101 at page 248, May 22,1918 in Book 184 at page 136, and October 6,1922 in Book 184 at page 353.
5. Easement and right of way for cattle driveway reserved by Robert J. Oversteg and Bertha Oversteg in Warranty Deed recorded October 1, 1936 in Book 245 at page 364.
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8. Any taxes, fees, assessments, or charges by reason of the inclusion of the subject property within the Crested Butte South Metropolitan District.
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11. Terms and conditions as contained in Resolution of the Board of County Commissioners of the County of Gunnison, Colorado, completing the extension and installation of water and sewer mains to all filings in Crested Butte South subdivision except for the north half of Block 6, Filing #2, Crested Butte South, recorded January 7,2015 as Reception No. 630782.
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16. Restrictive Covenant as set forth in instrument recorded March 31, 2006 as Reception No. 564090 and Termination recorded June 14,2016 as Reception No. 639896.
17. Easement Agreement as set forth in instrument recorded June 13, 2016 as Reception No. 639895 and rerecorded June 14,2016 as Reception No. 640092; and any and all assignments thereof or interests therein.
18. Cluster Agreement recorded May 22, 2017 as Reception No. 646556.
19. Declaration of protective covenants recorded at Reception No. 654250 and amendment at Reception No _____.
20. All matters shown on this plat.
21. Second Amendement to Easement Agreement recorded at Reception No. 662269.

This opinion does not address instruments affecting title but not recorded after the date of this opinion.

Dated: _____

_____
Jacob A. With, Esq., Reg. No. 40546

DEDICATION

Elcho IV Townhomes LLC, and The Gunnison Bank and Trust Company, being the owner and mortgagee the land described as follows:

Lots 11 and 12, Block 2, Crested Butte South – First Filing, according to the Plat recorded August 26, 1970 at Reception No. 280978 in the records of Gunnison County, Colorado,

in Gunnison County, Colorado, under the name of ELCHO IV TOWNHOMES has laid out, platted and/or subdivided the same as shown on this plat and do hereby dedicate to the unit owners and their guests, but not to the public at large, the common right to at large the streets, alleys, roads and other public areas as shown hereon and herby dedicate those portions of land labeled as easements for the installation and maintenance of public utilities as shown hereon.

ELCHO IV TOWNHOMES

In witness whereof Ken Buck has subscribed his name this _____ day of _____, A.D. 20___.

By_____
Ken Buck
As_____

State of Colorado)
)ss.
County of Gunnison)

The foregoing instrument was acknowledged before me this _____day of _____, A.D. 20_____, by Ken Buck.

My commission expires _____.

Witness my hand and official seal.

_____
Notary Public

THE GUNNISON BANK AND TRUST COMPANY

In witness whereof _____ has subscribed his/her name this _____ day of _____, A.D. 20___.

By_____

As_____

State of Colorado)
)ss.
County of Gunnison)

The foregoing instrument was acknowledged before me this _____day of _____, A.D. 20_____, by _____.

My commission expires _____.

Witness my hand and official seal.

_____
Notary Public

SURVEYOR'S CERTIFICATE

I, Timothy E. Pearson, a registered land surveyor in the State of Colorado, certify that this plat and the survey referred to herein were made under my direction and control and that both are true and correct to the best of my knowledge.

Dated this 7th day of February, 2020.

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

GUNNISON COUNTY CLERK AND RECORDER'S ACCEPTANCE

This plat was accepted for filing in the office of the Clerk and Recorder of Gunnison County, Colorado on this _____ day of _____, A.D. 20___, Reception Number _____, Time _____,
Date _____.

_____
County Clerk

FIRST AMENDED PLAT OF
ELCHO IV TOWNHOMES
within LOTS 11 & 12, BLOCK 2,
CRESTED BUTTE SOUTH – FIRST FILING
GUNNISON COUNTY, COLORADO
STREET ADDRESS: 7 TIMBERLINE WAY

PEARSON SURVEYING P.O. BOX 652 GUNNISON, CO 81230 970–641–2910 PROJECT # 18–4–4	DATE : 3/26/18 LATEST REVISION DATE : 2/7/20 SHEET 1 OF 1

GUNNISON COUNTY COMMUNITY & ECONOMIC DEVELOPMENT
Permit Database Instructions
970-641-0360

- **Enter – permitdb.gunnisoncounty.org/citizenaccess**
- **Click on**- Permits for Septic (OWTS & ISDS Permits)
- **Click on** – Permits for Building Permits
- **Click on** –Projects for Land Use Change Permits
- **Click into** –Application Number and fill in

When Found

- **Click on**- Attachments
- **Click on** -View

You may view any document that is in the Community & Economic Development database. If you are having problems with the database or need the application number, please call us @ 970-641-0360.