

ORDINANCE NO. 24

SERIES 2018

AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL APPROVING BY REFERENCE AMENDMENTS TO THE RED LADY ESTATES CONDOMINIUMS PLAT MAP AND DECLARATION TEXT FOR THE VACATION OF THE PUBLIC ACCESS EASEMENT AND RELOCATION OF PUBLIC ACCESS ONTO THE ADJOINING TOWN-BENCH PROPERTY.

WHEREAS, the Town of Crested Butte, Colorado (“Town”) is a home rule municipality duly and regularly organized and now validly existing as a body corporate and public under and by virtue of the Colorado Constitution and laws of the State of Colorado; and

WHEREAS, pursuant to Article XX of the Colorado Constitution, as implemented through the Town of Crested Butte Charter, Title 31, Article 23 and Title 20, Article 29, C.R.S., the Local Government Land Use Control Enabling Act of 1974, the Town has the authority to enact and enforce land use regulations; and

WHEREAS, Red Lady Estates Condominiums Plat Map was recorded October 6, 2003 as Reception No. 535522 and the Declaration Establishing the Condominiums was recorded October 6, 2003 as Reception No. 535523 in the office of the Gunnison County Clerk and Recorder; and

WHEREAS, the “Town-Bench Property” that includes Red Lady Estates, 1.46 acres, and other public open land tract containing 3.75 acres, is identified as “Public Lands” having a total of 5.21 acres according to the Trapper’s Crossing South Plat and subsequently annexed into the Town of Crested Butte via Ordinance No. 20, Series of 1990, recorded on January 16, 1991 as Reception No. 424904 in the office of the Gunnison County Clerk and Recorder; and

WHEREAS, according to Article 15 of the Declaration establishing the Red Lady Estates Condominiums, Town of Crested Butte as Declarant has the right, without the consent of any Owner or mortgagee or lienholder to amend the Map to insure that the language and all particulars that are used on the Map and contained in the Declaration are identical; to establish, vacate and relocate access easements; and to exercise any other Declarant Rights or development rights provided therein; and

WHEREAS, pursuant to Municipal Code Section 16-23-20, Town of Crested Butte as Declarant submitted Amendments to the Plat Map and Declaration Text for the vacation of the public access easement and relocation of public access onto the adjoining Town-Bench property; and

WHEREAS, Town Council considered the proposed Red Lady Estates Condominiums Map and Text Amendments to vacate the fifteen (15) feet wide public access easement with certain conditions and relocate public access onto the Town-Bench property, took public

comment and following discussion determined that the proposed amendments are in the best interest of the health, safety and welfare of Crested Butte, its property owners, residents and visitors by providing better public access, eliminating vehicular conflicts, minimizing impacts to residents and satisfying the specific covenant and condition for use of the property as a public park or other public purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Map Amendment: Red Lady Estates Condominiums Plat-1ST

Amendment. The Red Lady Estates Condominiums Plat Map recorded on October 6, 2003 as Reception No. 535522 in the office of the Gunnison County Clerk and Recorder is hereby revised and amended by this reference to the following:

On Sheet 2 of 2 of the Condominiums Plat, the “15’ Public Access Easement” delineated between Units 3-8, in a north-south orientation from the Red Lady Avenue public right-of-way to the southern property boundary is hereby vacated and the “15’ Public Access Easement” label/plat note is deleted; and the G.C.E. Snow Storage 1940 SF hatched-area shall remain as originally platted. Public Access is hereby relocated approximately 400 feet to the east onto the adjoining Town-Bench Property.

Exhibit A- Red Lady Estates Condominiums Plat 1ST Amendment.

Section 2. Text Amendment: Declaration Establishing Red Lady Estates

Condominiums-1ST Amendment. Section 12.4 Public Access Easement of the Declaration Establishing Red Lady Condominiums recorded on October 6, 2003 as Reception No. 535523 in the office of the Gunnison County Clerk and Recorder, is hereby deleted in its entirety and restated with a new title and language that reads:

“**12.4 Public Access Agreement.** Declarant hereby vacates the platted 15-foot wide easement for public access through and across the Common Elements, as depicted upon the Condominium Map, subject to these conditions: 1) Homeowners’ Association agrees and shall be obligated to stock, maintain and service the “doggie-station” and trash bin with supplies provided by the Town at the relocated public access trailhead on the Town-Bench Property in perpetuity or as amended by mutual agreement; 2) Homeowners’ Association shall de-commission the existing trails through Red Lady Estates by re-grading and re-vegetating the disturbed area so that it blends with the natural landscape within twelve (12) months after recordation of this amendment; 3) Homeowners’ Association may post ‘Private Property/No Public Access’ signs at each of the three (3) access driveway entrances to the Units from Red Lady Avenue; and 4) In the event Homeowners’ Association fails to abide by the conditions of this agreement, Declarant may re-establish and re-plate the 15-foot wide easement for public access through and across the Common Elements for the purpose of allowing public access to the public lands located south of the Property.”

Exhibit B-Declaration Establishing Red Lady Estates Condominiums 1ST Revision, Section 12.4 Public Access Easement.

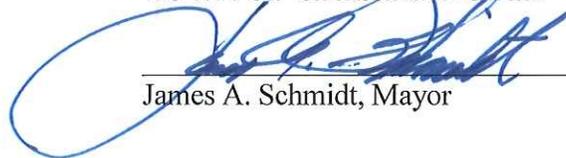
Section 3. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance as an entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 4. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code shall remain valid and in full force and effect. Any provision of the Code that is in conflict with this ordinance is hereby repealed as of the effective date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 17th DAY OF SEPTEMBER, 2018.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 1st DAY OF OCTOBER, 2018.

TOWN OF CRESTED BUTTE


James A. Schmidt, Mayor

ATTEST:


Lynelle Stanford, Town Clerk

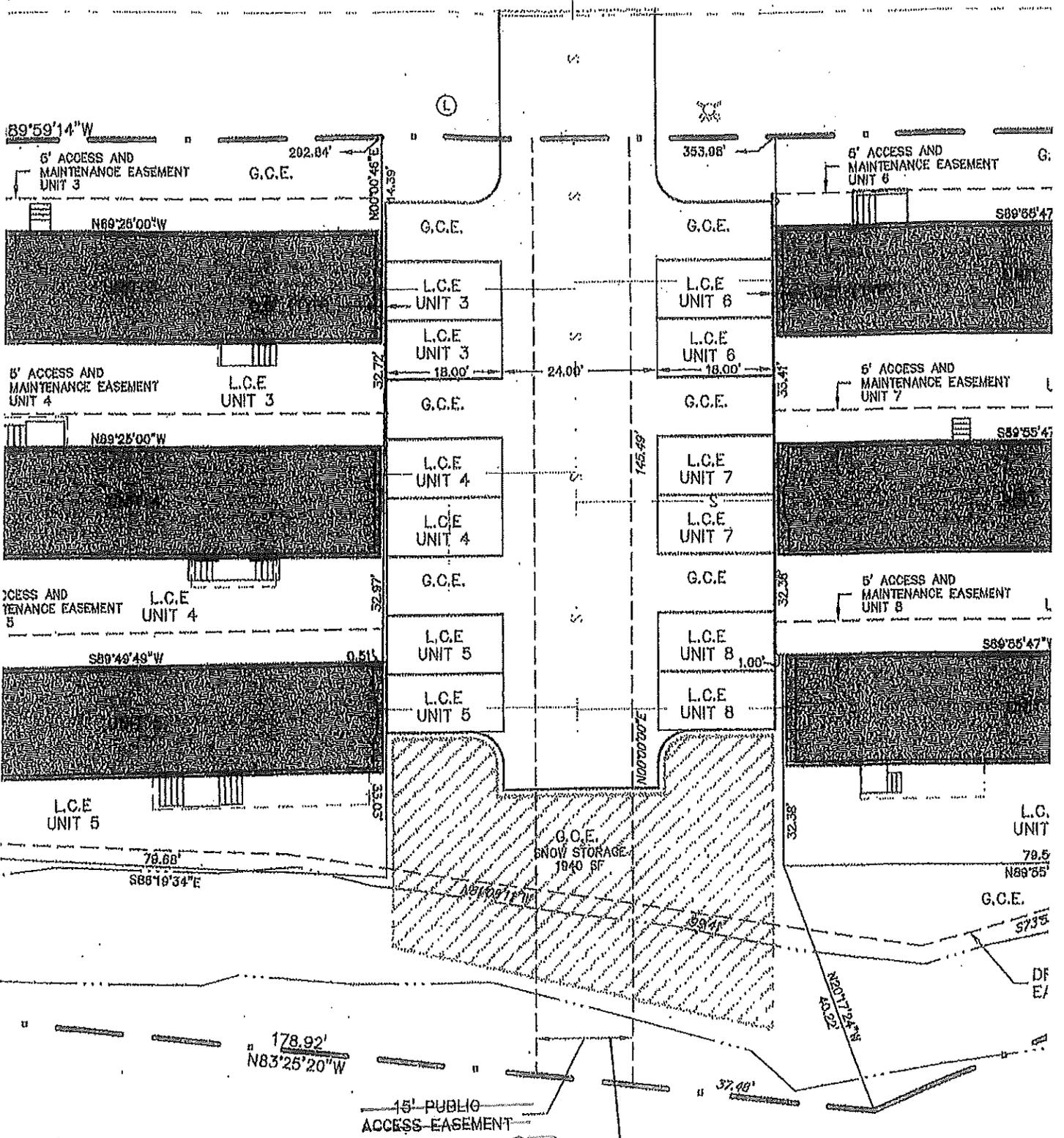


Exhibit "A"

Red Lady Estates Condominiums Plat 1ST Amendment

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RED LADY AVENUE



Vacation of 15' Public Access Easement
 Town of Crested Butte Ordinance No. __, Series of 2018.

Exhibit "B"

Declaration Establishing Red Lady Estates Condominiums 1ST Revision,

Section 12.4 Public Access Easement

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forth above, the Association shall bear the full responsibility and expense of all damages incurred to the Unit and/or Common Elements because of such forcible entry. All damage to the interior or any part of a Unit resulting from the maintenance, repair, emergency repair or replacement of any of the improvements at the instance of the Association, shall be paid for as part of the Annual Assessment by all of the Owners. No Owner shall be entitled to diminution or abatement for inconveniences or discomfort arising from the making of repairs or improvements or from action taken to comply with any law, ordinance or order of any governmental authority. Restoration of the damaged improvements shall be substantially the same as the condition in which they existed prior to damage.

Notwithstanding the foregoing, if any such damage is the result of the failure of an Owner to provide the authorized management company with a key to their respective Unit and/or the carelessness or negligence of any Owner, then such Owner shall be solely responsible for the costs of repairing such damage. In the event the Owner fails within a reasonable time upon proper notice to pay the cost of the damages incurred, the Board may pay for said damages and charge the Owner responsible as a Default Assessment.

~~12.4 Public Access Easement. There shall be an easement for public access through and across the Common Elements, as depicted upon the Condominium Map, for the purpose of allowing the public access to the public lands located to the south of the Property.~~

12.4 Public Access Agreement. Declarant hereby vacates the platted 15-foot wide easement for public access through and across the Common Elements, as depicted upon the Condominium Map, subject to these conditions: 1) Homeowners' Association agrees and shall be obligated to stock, maintain and service the "doggie-station" and trash bin with supplies provided by the Town at the relocated public access trailhead on the Town-Bench Property in perpetuity or as amended by mutual agreement; 2) Homeowners' Association shall decommission the existing trails through Red Lady Estates by re-grading and re-vegetating the disturbed area so that it blends with the natural landscape within twelve (12) months after recordation of this amendment; 3) Homeowners' Association may post 'Private Property/No Public Access' signs at each of the three (3) access driveway entrances to the Units from Red Lady Avenue; and 4) In the event Homeowners' Association fails to abide by the conditions of this agreement, Declarant may re-establish and re-plat the 15-foot wide easement for public access through and across the Common Elements for the purpose of allowing public access to the public lands located south of the Property."

12.5 Easement on Limited Common Element for Ingress, Egress and Access. A five foot (5') easement running the length of the south side of each Unit, on the Limited Common Element of such Unit, is depicted on the Map. The purpose of such easement is to permit access for the adjoining Unit over, upon and across such Limited Common Element, for the purpose of ingress and egress to the adjoining Unit, and maintenance and repair of the adjoining Unit.

12.6 Drainage Easement. An easement for drainage is shown on the Map. That easement is granted to the Town of Crested Butte, which may utilize such easement, without limitation, as may be necessary and appropriate to accomplish the drainage needs of the Town.