

16th Jan 76 11:02A. Maria A. Smith
H. H. H. H. H. H. H.ORDINANCE NO. 20SERIES 1975

COPY

AN ORDINANCE GRANTING AN EASEMENT TO BARNETT MORTGAGE TRUST, A FLORIDA BUSINESS TRUST, TO CONSTRUCT AND MAINTAIN A PEDESTRIAN BRIDGE OVER THE CRESTED BUTTE-GOTHIC COUNTY ROAD IN THE TOWN OF MT. CRESTED BUTTE, COLORADO.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

Section 1. Grant of Authority. That the Barnett Mortgage Trust, a Florida business trust (hereinafter "Association") is hereby granted a non-exclusive easement across and over the Crested Butte-Gothic County Road (hereinafter "Gothic Road") in the Town of Mt. Crested Butte (hereinafter the "Town") for the sole purpose of constructing and maintaining a pedestrian bridge over said Gothic Road, the easement being further described as follows:

SEE ATTACHED EXHIBIT "A"

It is understood and agreed to between the Town and the Association that it is the intent of the Association to transfer and assign all right, title, interest, duties and responsibilities of the Association to an association to be formed by the Panorama Condominium owners, which association shall thereafter assume all rights, obligations and duties granted hereunder.

Section 2. Consideration. The Town and the Association recognize that it would be in the best interest of both of the parties and of the ski area to permit all persons to have free and unencumbered access to and from said pedestrian bridge and therefore, the Association agrees to, and shall, dedicate and grant to the Town a public thoroughfare and easement from the west terminus of said pedestrian bridge both northerly and southerly to the next public access. The placements and location of said easements shall be by mutual agreement between the Town and the Association.

Section 3. Repair of Streets. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Association shall, at its own cost and expense, and in a manner entirely satisfactory to the Town, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed in as good as condition for a period of five (5) years. And in this behalf the Association agrees and shall post and deposit with the Town any reasonable bond or undertaking, the amount thereof to be fixed by the Town Council, guaranteeing and insuring the fulfillment of the terms and obligations hereof and saving, protecting, indemnifying and holding harmless the Town from any and all damages, claims, demands or liabilities whatsoever by reason of said work.

Section 4. Maintenance. The Association shall so maintain its structures, apparatus and equipment, its pedestrian bridge and appurtenances built hereunder so as to afford all reasonable protection against injury or damage to persons or property therefrom; and the Town shall be saved harmless from any liability or damage accruing against said Town arising out of the negligent exercise by the Association of the rights and privileges hereby granted, or arising out of or in any way connected with or concerning the pedestrian bridge being built by the Association hereunder or its use.

Maintenance as used herein shall mean: (1) maintaining said bridge and its appurtenances in a safe and sound structural condition; (2) removing snow and ice accumulations from said bridge and neither permitting nor allowing said snow and ice to be shovelled or in any way disposed or removed from said bridge onto said Gothic Road beneath said bridge; and (3) maintaining the appearance of said bridge and its appurtenances so as to be continually esthetically pleasing to the eye, not permitting said bridge and appurtenances to become worn looking or in a state of disrepair.

Section 5. Use of Bridge. The grant of authority herein is for the purpose of the construction of a pedestrian bridge. The Association shall not permit said bridge to be used by any vehicular traffic, including, but not by way of limitation, automobiles, trucks, ski-mobiles and motorcycles. However, the Association shall permit all pedestrians and the general public to have free and unencumbered access to and from and across said pedestrian bridge.

Section 6. Insurance. The Association agrees and shall, as a condition precedent of this easement, purchase and maintain a policy of accident, life and liability insurance in the maximum policy limits of \$1 million dollars with respect to said pedestrian bridge, naming the Town as an additional insured thereunder, and to supply the Town no less than semi-annually with proof of such insurance.

Section 7. Purchase by Town. The Town shall have the right of purchasing the pedestrian bridge and appurtenances of the Association according to the laws of the State of Colorado. Whenever the Town Council shall require, the Association shall upon sixty (60) days notice submit a statement setting forth the fair market value of all of the said pedestrian bridge and its appurtenances used, built, constructed or maintained under this ordinance, but not including the value of the easement or right of way being granted hereunder, and stating the sum which the Association is willing to accept as the price thereof upon sale to the Town. If the Town Council determines that the purchase at such a price would be advantageous and just to the citizens of the Town, it shall proceed with such purchase in the manner provided by law.

If the Town Council deems the price stated by the Association to be unduly high and disadvantageous, it shall enter into a written agreement with the Association to refer the question of a just price to a board of arbitrators composed of one person appointed by the municipality and one by the Association who shall jointly determine the fair market value of the property to be purchased, then they shall choose a third disinterested arbitrator and the award of any two arbitrators shall be binding. Such board of arbitrators shall inspect and make inventory of the property of the Association proposed to be purchased by the municipality, and for such purpose shall have at all times unhindered access to all property, premises, books, records and reports of said Association, and shall determine the fair market value of the property to be purchased by the municipality as such property existed at the time when notice was given of the intention of the municipality to purchase. The board shall make a full detailed report to the Town Council recommending a fair price to be paid by the municipality which shall be based on the fair market value of the property to be purchased. If the Town Council determines that the purchase at such price would be advantageous and just to the citizens of the municipality, it shall proceed with such purchase in the manner provided by law.

If the Association fails to present said property in as good repair and condition at the time the Town assumes control thereof as it was at the time of appraisal, the Town shall deduct from the purchase price such sum as the said board of arbitrators determines to be a just allowance.

If the Town does so purchase the pedestrian bridge, it shall be for the same purposes as set forth in sections 1, 2 and 5, infra, that being that the same be used as a pedestrian bridge for all persons over and across Gothic Road.

Section 8. Term. The term of this easement shall be perpetual unless otherwise cancelled by the Town for breach of conditions hereunder. This easement shall also be terminated upon the acquisition by the Town of the pedestrian bridge and its appurtenances pursuant to Section 7 hereunder.

Section 9. Forfeiture. Any failure on the part of the Association to comply with any or all of the terms, covenants and conditions of this ordinance within sixty (60) days after notice in writing has been given by the Town to the Association of the Association's non-compliance with any such terms, covenants, and conditions, and upon the Association's failure to correct such default within the time limited, shall constitute a forfeiture of all rights and privileges hereunder, and shall immediately vest in the Town the right to terminate this grant of easement forthwith.

In the event of such termination and forfeiture the Town shall have the right, power and authority, and the Association hereby agrees, to (1) dismantle and remove said pedestrian bridge, assessing the cost of such against the fee interest held by the members of the Association in the Panorama Condominium, (2) continue the operation and maintenance of said pedestrian bridge in its own, the Town's name, assessing all costs of maintenance and insurance against the fee interest held by the members of the Association in the Panorama Condominium, or (3) purchase said pedestrian bridge and its appurtenances outright as provided above in Section 7, the election to be made by the Town.

Section 10. Severability. In the event any one or more of the provisions of this franchise shall be determined to be illegal, unlawful, or unconstitutional, the same shall not be construed to alter, annul or repeal or otherwise affect any of the terms, provisions, restrictions, requirements or conditions of this ordinance, which may be held legal or valid.

Section 11. Publication Costs. The Association shall assume the cost of publication of this ordinance as such publication is required by law. A bill for publication costs shall be presented to the Association by the Town Treasurer upon the Association's filing of acceptance and shall be paid at that time.

Section 12. Legal Costs. The Association shall assume the legal costs of preparation of this ordinance as said costs are billed to the Town by its attorney.

Section 13. Effective Date. The Town Council finds, determines and declares this ordinance to be necessary for the

immediate preservation of the public peace, health, and safety of the inhabitants of the Town and hereby ordains that it shall be in immediate force and effect from and after five (5) days following its passage, adoption and publication as provided by law.

PASSED, ADOPTED AND APPROVED this 15th day of December, 1975.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: *James H. Larkin*
Mayor

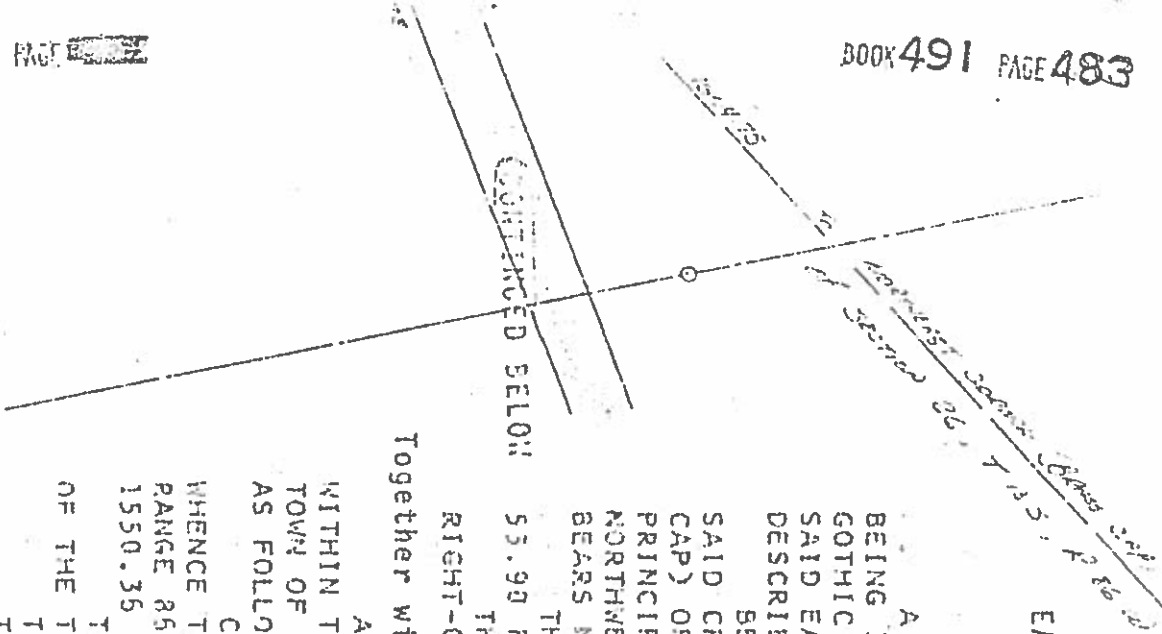
ATTEST:

Jane Wiley
Town Clerk

BARNETT MORTGAGE TRUST,
a Florida Business Trust

By: *Thomas C. Bergman*
Secretary

BOOK PAGE



EASEMENT DESCRIPTION FOR PEDESTRIAN BRIDGE CROSSING OVER THE
CRESTED BUTTE -- GOthic ROAD

A TRACT OF LAND FOR AN OVERHEAD-PEDESTRIAN-BRIDGE EASEMENT PURPOSE, BEING 15 FEET IN WIDTH, AND BEING LOCATED ACROSS THE CRESTED BUTTE-GOTHIC ROAD IN THE TOWN OF MT. CRESTED BUTTE, GUNNISON COUNTY, COLORADO, SAID EASEMENT BEING 7.5 FEET IN WIDTH ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY RIGHT-OF-WAY BOUNDARY OF THE SAID CRESTED BUTTE-GOTHIC ROAD FROM WHENCE THE NORTHEAST CORNER (BRASS CAP) OF SECTION 26, TOWNSHIP 13 SOUTH, RANGE 86 WEST OF THE SIXTH PRINCIPAL MERIDIAN BEARS NORTH 47-41.1' EAST 1550.36 FEET, AND THE MOST NORTHWESTERLY CORNER OF LOT TECCALLI OF SAID TOWN OF MT. CRESTED BUTTE BEARS NORTH 11-09'51" WEST 14.53 FEET;

THENCE PROCEEDING ALONG SAID EASEMENT CENTERLINE SOUTH 70-00.5' WEST 53.90 FEET TO THE CENTER OF A CONCRETE PIER;

THENCE CONTINUING SOUTH 70-00.5' WEST 6.83 FEET TO THE WESTERLY RIGHT-OF-WAY BOUNDARY OF THE SAID CRESTED BUTTE-GOTHIC ROAD.

Together with

A TRACT OF LAND OCCUPIED BY A CONCRETE BRIDGE PIER BEING LOCATED WITHIN THE RIGHT-OF-WAY OF THE CRESTED BUTTE TO GOthic ROADWAY WITHIN THE TOWN OF MT. CRESTED BUTTE, GUNNISON COUNTY, COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EASTERLY SIDE OF SAID ROADWAY FROM WHENCE THE NORTHEAST CORNER (BRASS CAP) OF SECTION 26 - TOWNSHIP 13 SOUTH - RANGE 86 WEST OF THE SIXTH PRINCIPAL MERIDIAN BEARS NORTH 47-41.1' EAST 1550.36 FEET;

THENCE SOUTH 70-00.5' WEST 51.40 FEET TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED;

THENCE PROCEEDING AROUND THE TRACT NORTH 19-59.5' WEST 2.5 FEET;

THENCE SOUTH 70-00.5' WEST 5.0 FEET;

THENCE SOUTH 19-59.5' EAST 5.0 FEET;

THENCE NORTH 70-00.5' EAST 5.0 FEET;

THENCE NORTH 19-59.5' WEST 2.5 FEET TO THE POINT OF BEGINNING;

The above easement and pier location being described and referred to in Ordinance No. 20, Series 1975, Town of Mt. Crested Butte, Colorado.

Recorded at 11:02 o'clock A.M. January 16, 1976
Reception No. 309417

STATE RECORDS DEPARTMENT
DATE 1-16-76
5 Pages

BARNETT MORTGAGE TRUST, a Florida business trust,
whose address is 720 Gilmore Street, Jacksonville,
County of Duval, State of

Florida, for the consideration of ten dollars
and other good and valuable consideration
dollars, in hand paid, hereby sell(s) and convey(s) to

THE TOWN OF MT. CRESTED BUTTE, a Colorado municipal corporation

whose address is Mt. Crested Butte, County of
Gunnison, and State of Colorado the following real property in the
County of Gunnison, and State of Colorado, to wit:

A perpetual non-exclusive easement and right of way for pedestrian
travel as a public way and access over and across tracts of land
located in the Town of Mt. Crested Butte, Gunnison County, Colorado
and described on Exhibits "A", "B", "C" and "D", attached hereto and
incorporated herein by reference.

It is expressly understood that this conveyance is for the purpose of
granting and dedicating to the public a pedestrian and foot travel
easement across said tracts of land to and from the overhead pedestrian
bridge across the Crested Butte-Gothic County road and that if said
pedestrian bridge ceases to exist or its use is discontinued for
pedestrian use this easement shall become null and void, otherwise to
remain in full force and effect.

with all its appurtenances, and warrant(s) the title to the same, subject to any easements or
rights of way in place or of record, patent or mineral exceptions and reserva-
tions, if any, and any unpaid general property taxes.

Signed this 12th day of January, 1976.

BARNETT MORTGAGE TRUST, a Florida business trust,

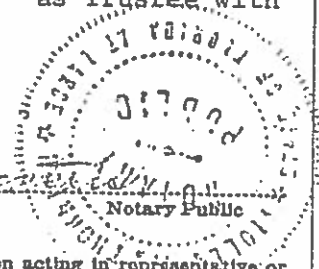
By: William S. Keasler
Trustee with authority

STATE OF COLORADO, Florida } ss.
County of Duval

The foregoing instrument was acknowledged before me this 12th
day of January, 1976, by William S. Keasler as Trustee with
authority of Barnett Mortgage Trust, a Florida business trust.

Notary Public, State of Florida at Large
My commission expires Mar. 30, 1976
Witness my hand and official seal.

William M. [Signature]
Notary Public



Statutory Acknowledgment.—If by natural person or persons here insert name or names; if by person acting in representative or official capacity or as attorney-in-fact then insert name of person as executor attorney-in-fact or other capacity or description; if by officer of corporation then insert name of such officer or officers as the president or other officers of such corporation naming it.

EXHIBIT "A"

Beginning at a point on the northerly side of an overhead pedestrian bridge which is on the easterly boundary of the above said parcel from whence the northeast corner (brass cap) of Section 26, Township 13 South, Range 86 West of the sixth principal meridian, bears North $48^{\circ}36'30''$ East 1604.75 feet;

Thence proceeding around the easement tract South $11^{\circ}09'51''$ East along the said easterly parcel boundary 6.7 feet to the southerly side of said pedestrian bridge;

Thence South $70^{\circ}00'30''$ West along the said southerly bridge side 38.59 feet to a bridge abutment corner;

Thence along existing pedestrian walk and stair ways, the following courses and distances:

South $41^{\circ}42'22''$ West 20.59 feet;

Thence South $87^{\circ}31'02''$ West 38.68 feet;

Thence North $51^{\circ}53'36''$ West 6.03 feet;

Thence North $40^{\circ}35'59''$ East 9.74 feet;

Thence South $87^{\circ}44'54''$ West 9.89 feet;

Thence South $39^{\circ}36'45''$ West 7.82 feet;

Thence South $75^{\circ}30'43''$ West 24.04 feet;

Thence South $41^{\circ}37'17''$ West 31.79 feet;

Thence North $48^{\circ}48'42''$ West 170.00 feet;

Thence South $48^{\circ}13'47''$ West 34.00 feet;

Thence North $40^{\circ}44'58''$ West 42.18 feet to the westerly boundary of said parcel described in Book 460 at Page 207;

Thence North $3^{\circ}40'$ West along said parcel boundary 10.72 feet;

Thence leaving said parcel boundary along existing pedestrian walk and stair ways the following courses and distances:

South $40^{\circ}44'58''$ East 44.66 feet;

Thence North $48^{\circ}13'47''$ East 31.81 feet;

Thence South $48^{\circ}48'42''$ East 170.89 feet;

Thence North $40^{\circ}31'36''$ East 40.32 feet;

Thence North $81^{\circ}43'15''$ East 13.79 feet;

Thence North $86^{\circ}33'49''$ East 31.48 feet;

Thence South $40^{\circ}35'59''$ West 15.0 feet;

Thence North $87^{\circ}31'02''$ East 31.0 feet;

Thence North $41^{\circ}42'22''$ East 22.83 feet to an abutment corner on the said pedestrian bridge;

Thence North $70^{\circ}00'30''$ East along the northerly side of said pedestrian bridge 39.74 feet to the point of beginning.

EXHIBIT "B"

Beginning at a point on the northerly side of an overhead pedestrian bridge which point is on the northerly boundary of said Lot Teocalli from whence the northwesterly corner of said Lot Teocalli bears South $77^{\circ}16'02''$ West 88.70 feet and the northeast corner (brass cap) of Section 26, Township 13 South, Range 86 West of the sixth principal meridian bears North $46^{\circ}27'44''$ East 1465.72 feet;

Thence proceeding around said easement tract, said easement tract being located on the existing pedestrian bridge and walk and stair ways, North $77^{\circ}16'02''$ East along the above said northerly lot boundary 38.72 feet;

Thence leaving said lot boundary South $54^{\circ}40'21''$ East 8.49 feet;

Thence North $77^{\circ}19'12''$ East 8.27 feet to another northerly boundary of said Lot Teocalli;

Thence South $60^{\circ}20'$ East along said lot boundary 11.88 feet;

Thence leaving said lot boundary South $77^{\circ}19'12''$ West 19.70 feet;

Thence North $54^{\circ}40'21''$ West 13.82 feet;

Thence South $77^{\circ}44'50''$ West 11.03 feet to an abutment corner for an existing pedestrian bridge;

Thence South $70^{\circ}00'30''$ West along the southerly side of said bridge 111.55 feet to the westerly boundary of said Lot Teocalli;

Thence North $11^{\circ}09'51''$ West along said westerly boundary 6.7 feet to the northerly side of said bridge;

Thence North $70^{\circ}00'30''$ East along said northerly bridge side 89.73 feet to the point of beginning.

EXHIBIT "C"

Beginning at a point on the northerly side of an overhead pedestrian bridge which is on the southerly boundary of said Lot Emmons from whence the southwesterly corner of said Lot Emmons bears South $77^{\circ}16'02''$ West 88.70 feet and the northeast corner (brass cap) of Section Twenty-six (26), Township Thirteen (13) South, Range Eighty-six (86) west of the sixth principal meridian bears North $46^{\circ}27'44''$ East 1465.72 feet; Thence proceeding around said easement tract, said easement tract being located on the existing pedestrian bridge and walk and stair ways, North $70^{\circ}00'30''$ East 20.68 feet; thence North $77^{\circ}29'07''$ East 15.92 feet; thence South $54^{\circ}40'21''$ East 3.43 feet to the southerly boundary of Lot Emmons; thence South $77^{\circ}16'02''$ West along said boundary 38.72 feet to the point of beginning.

EXHIBIT "D"

Beginning at a point on a southerly boundary of said Lot Emmons from whence an angle point corner on said boundary bears North $60^{\circ}20'$ West 9.37 feet, and the North-east corner (brass cap) of Section 26, Township 13 South, Range 86 West of the sixth principal meridian, bears North $45^{\circ}09'30''$ East 1424.09 feet;

Thence proceeding around said easement tract North $77^{\circ}19'12''$ East 82.68 feet;

Thence on a curve to the right a distance of 39.11 feet to the westerly boundary of Crested Butte Way of the said Town of Mt. Crested Butte, said curve having a radius of 33.0 feet and a chord which bears North $60^{\circ}57'32''$ East 36.86 feet;

Thence South $12^{\circ}43'58''$ East along the said westerly boundary of Crested Butte Way a distance of 8.54 feet to a common corner between Lot Emmons and Lot Emerald;

Thence on a curve to the left along the common boundary between the above said lots a distance of 35.77 feet, said curve having a radius of 25.0 feet and a chord which bears South $59^{\circ}50'58''$ West 32.80 feet;

Thence leaving said common lot boundary South $77^{\circ}19'12''$ West 77.98 feet to the said southerly boundary of Lot Emmons;

Thence North $60^{\circ}20'$ West along said boundary 11.88 feet to the point of beginning.