

Ordinance No. 2018-06

**AN ORDINANCE APPROVING THE EMPIRE RESIDENCES CONDOMINIUM PLAT
LOCATED AT 7695 VILLAGE WAY, PARK CITY, UTAH.**

WHEREAS, the owners of the property known as the Empire Residences Condominiums, located at 7695 Village Way, petitioned the City Council for approval of the Empire Residences Condominiums plat; and

WHEREAS, on December 22, 2017, the property was properly posted and legal notice was sent to all affected property owners; and

WHEREAS, on December 23, 2017, proper legal notice was published in the Park Record and on the Utah Public Notice website according to requirements of the Land Management Code; and

WHEREAS, the Planning Commission held a public hearing on January 10, 2018, to receive input on the Empire Residences Condominium plat; and

WHEREAS, the Planning Commission, on January 10, 2018, forwarded a positive recommendation to the City Council; and

WHEREAS, the City Council on February 1, 2018, held a public hearing and took action on the condominium plat; and

WHEREAS, it is in the best interest of Park City, Utah to approve the Empire Residences Condominium plat consistent with the Village at Empire Pass Master Planned Development Agreement and the Empire Residences Conditional Use Permit.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The Empire Residences Condominium plat as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is subject to the Flagstaff Mountain Annexation and Development Agreement approved by City Council per Resolution No. 99-30 on June 24, 1999 and amended on March 2, 2007.
2. The Development Agreement is the equivalent of a Large-Scale Master Plan. The Development Agreement sets forth maximum project densities, location of densities, and developer-offered amenities for the annexation area.
3. On July 28, 2004, the Planning Commission approved a Master Planned Development for the Village at Empire Pass (VEP MPD) (Pods A and B1) within the Flagstaff Mountain Annexation and Development area. The MPD (also known as the Mountain Village) was later amended to include Pod B2 (Montage and B2 East).

4. The Mountain Village (Pods A, B1 and B2) was approved for a maximum of 785 UE of multi-family (550 multifamily units) and 16 single family units. A maximum of 60 PUD style units (i.e. Belles, Paintbrush, and Nakoma) were approved as part of the overall multi-family units.
5. To date approximately 382 multi-family units (588.742 UE) (of which 52 are PUD style units) and 16 single family units have been platted and/or built (including the One Empire Pass units currently under construction) within Pods A, B1 and B2.
6. Constructed lodge style buildings include Shooting Star, Silver Strike, Flagstaff, Arrowleaf A and B, and Grand Lodge. Building 5 is under construction as One Empire Pass. Lodge buildings still to be approved within Pod A are: Tower Residences (Building 1), Building 3 (subject property) and Building 4.
7. There is sufficient density remaining within the VE MPD for the proposed 21 units (24.5 UE).
8. Approximately 540 certificates of occupancy have been issued for the entire Flagstaff Annexation and Development area (Pods A, B1, B2, and D). According to the Annexation and Development Agreement, 15 AUE of affordable housing obligations come due for each 150 UE certificates of occupancy. The next housing obligation trigger point is 600 UE certificates of occupancy, when 60 AUE are required to be complete. As of now 104 AUE are completed and have certificates of occupancy (89 units are off-mountain and 15 units are on-mountain).
9. As part of the Empire Residences CUP 1.1 AUE (880 sf) is required by the subdivision plat for this lot. The affordable unit consists of 880 sf (not including dedicated storage areas) as will be deed restricted for use by a qualified employee consistent with the Flagstaff Housing Mitigation Plan and applicable housing resolutions.
10. On April 12, 2017, the Planning Department received an application for a Conditional Use Permit for a twenty-one (21) unit residential building to be located on Lot 3 of the Village at Empire Pass North Subdivision. The application was deemed complete on July 17, 2017 and is currently under review by the Planning Commission.
11. The Village at Empire Pass North Subdivision was approved by Council on June 15, 2017 and is currently under final review by the City as required prior to recordation.
12. The property is located at 7695 Village Way.
13. Access to the property is from Village Way, a private street.
14. Lot 3 consists of 28,750 square feet and is currently developed with a temporary sales building and small parking area.
15. The property is subject to subdivision plat notes that require compliance with the Flagstaff Annexation and Development Agreement, approval of a Conditional Use Permit for each lodge building prior to issuance of a building permit, a declaration of condominium and a record of survey plat prior to individual sale of units, membership in the Empire Pass Master HOA, a 20' snow storage easement along the street frontages, water efficient landscaping, and various utility and maintenance provisions.
16. On November 21, 2017, the City received an application for the Empire Residences Condominium plat. The application was considered complete on November 27, 2017.
17. In December of 2016, a building permit for a temporary sales office building was issued for this site. Building permits for the condominiums cannot be issued until the Conditional Use Permit is approved by the Planning Commission and the Subdivision plat is recorded.

18. The proposed condominium plat memorializes the density, size and configuration of units to be construction in one phase and identifies areas of private, common and limited common ownership.
19. The condominium plat identifies 21 private residential units totaling 48,968 sf, utilizing 24.484 UE. The units range in size from 542 sf to 3,596 sf with an average unit size of 2,331.8 sf. The 436 sf ADA unit is required to be identified as common area. Staff recommends that the 880 sf EHU be identified as common area to be held and leased to a qualified employee per the required deed restriction.
20. No commercial uses are proposed.
21. Based on the unit sizes, a minimum of 32 parking spaces are required when taking into consideration the 25% parking reduction required by the Flagstaff Development Agreement and MPD.
22. An underground parking structure provides 30 parking spaces, including 2 ADA spaces, as well as limited common storage areas for each unit. Three surface spaces are provided for a total of 33 parking spaces.
23. Each unit has one assigned limited common parking space and the remaining spaces are common.
24. The plat is consistent with the approved Village at Empire Pass Master Planned Development and the Empire Residences Conditional Use Permit in terms of density, height, uses, setbacks, and parking.
25. A Master Homeowners Association document and Maintenance Agreement for the Mountain Village were reviewed and approved by the City prior to issuance of building permits for buildings within the Mountain Village. This property is also subject to these documents, in addition to any declaration of condominium and CCRs recorded with the condominium plat.
26. The condominium plat allows for the sale of individual units.

Conclusions of Law:

1. There is good cause for this condominium plat.
2. The condominium plat is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed condominium plat.
4. Approval of the condominium plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the ~~amended~~ condominium plat for compliance with State law, the Land Management Code, and these conditions of approval, prior to recordation of the plat.
2. The applicant will record the ~~amended~~ condominium plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval will be void, unless a request for an extension is submitted in writing and approved by the City Council.
3. Conditions of approval of the Village at Empire Pass Master Planned Development (MPD) and the Empire Residences Conditional Use Permit (CUP) apply to this plat and a note shall be added to the plat prior to recordation referencing that conditions of approval of the Village at Empire Pass MPD, Village at Empire Pass North Subdivision, and the Empire Residences CUP continue to apply to this condominium

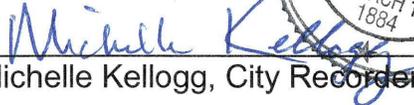
- plat.
4. All applicable recorded public utility and access easements shall be indicated on this condominium plat prior to recordation.
 5. The Village at Empire Pass North Subdivision plat shall be recorded prior to issuance of building permits for the condominiums and prior to recordation of this condominium plat.
 6. The deed restricted employee housing unit (EHU) shall be a minimum of 880 sf, exclusive of additional storage area to be dedicated to this unit, to meet the plat note requirement of 1.1 AUE for this lot. One AUE is equivalent to 800 sf according to the Development Agreement.
 7. A deed restriction for the EHU unit, acceptable to the City, shall be recorded prior to plat recordation. The deed restriction shall outline and resolve issues or concerns regarding affordable units within condominium projects. The plat shall note that the EHU is subject to the deed restriction.
 8. The CCRs shall limit the HOA dues related to the deed restricted employee housing unit (EHU) and include other related items that ensure the EHU remains affordable. The CCRs shall reflect a lower par-value to reflect the reduced cost of the unit (or exempt the unit from HOA fees) to ensure that the unit doesn't lose its affordability due to HOA fees. The CCRs shall be submitted with the condominium plat for review and approval by the City prior to final condominium plat recordation.
 9. The ADA unit shall be platted as Common Area.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 1st day of February, 2018.

PARK CITY MUNICIPAL CORPORATION

ATTEST:


Michelle Kellogg, City Recorder




Andy Beerman, MAYOR

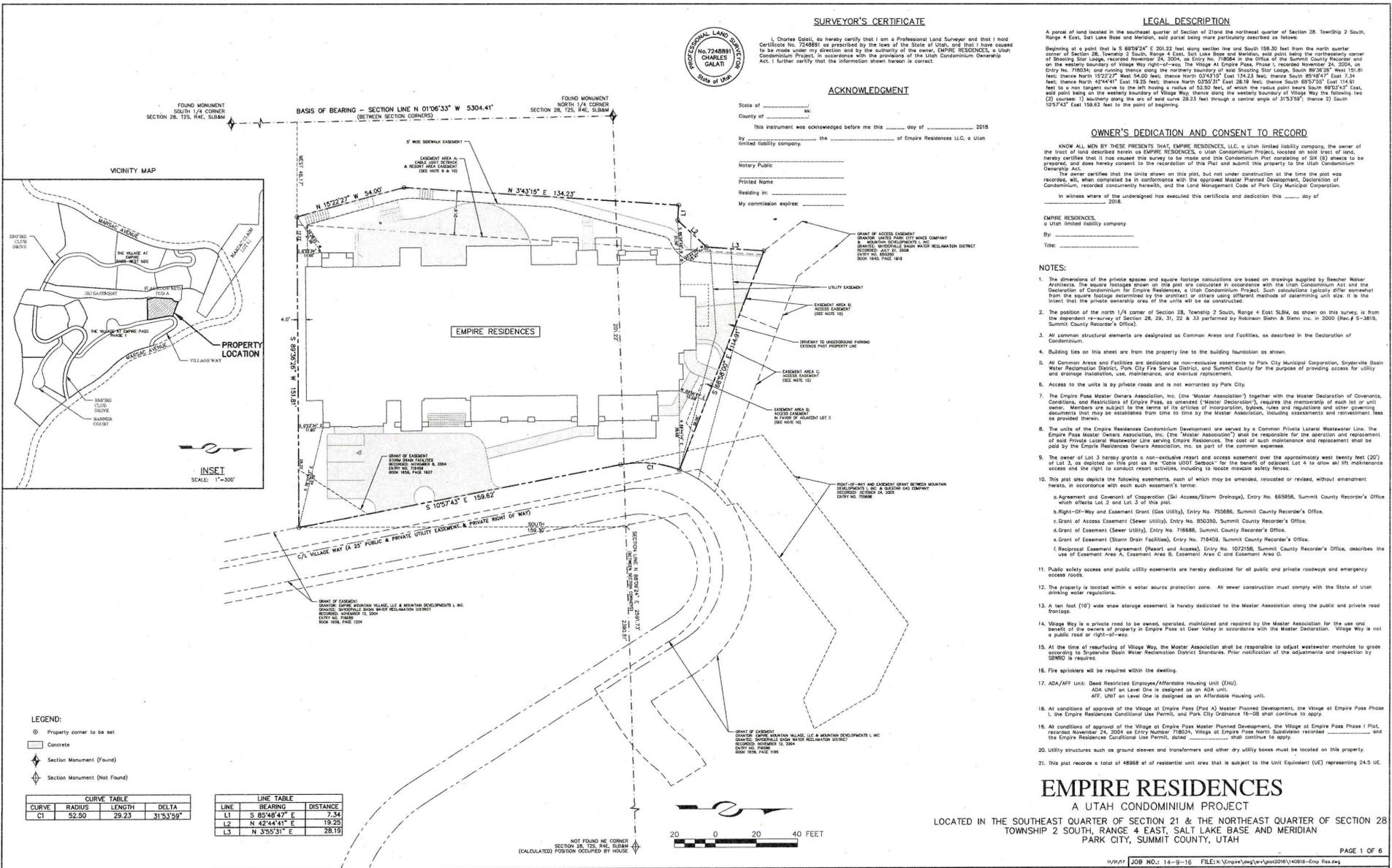
APPROVED AS TO FORM:


Mark Harrington, City Attorney

Exhibits

Exhibit A – Condominium plat

EXHIBIT A



<p>(435) 649-8487</p> <p>SNYDERVILLE BASIN WATER RECLAMATION DISTRICT</p> <p>REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____ 2018</p> <p>BY _____ S.B.W.R.D.</p>	<p>PLANNING COMMISSION</p> <p>APPROVED BY THE PARK CITY PLANNING COMMISSION THIS DAY OF _____ 2017</p> <p>BY _____ CHAIR</p>	<p>ENGINEER'S CERTIFICATE</p> <p>I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS DAY OF _____ 2018</p> <p>BY _____ PARK CITY ENGINEER</p>	<p>APPROVAL AS TO FORM</p> <p>APPROVED AS TO FORM THIS DAY OF _____ 2018</p> <p>BY _____ PARK CITY ATTORNEY</p>	<p>COUNCIL APPROVAL AND ACCEPTANCE</p> <p>APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS DAY OF _____ 2017</p> <p>BY _____ MAYOR</p>	<p>CERTIFICATE OF ATTEST</p> <p>I CERTIFY THIS CONDOMINIUM PLAT WAS APPROVED BY PARK CITY COUNCIL THIS DAY OF _____ 2017</p> <p>BY _____ PARK CITY RECORDER</p>	<p>RECORDED</p> <p>STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____</p> <p>_____ FEE _____ RECORDER _____</p> <p>_____ TIME _____ DATE _____ ENTRY NO. _____</p>

CONSULTING ENGINEERS LAND PLANNERS SURVEYORS
323 Main Street, P.O. Box 2654 Park City, Utah 84002-2654



SURVEYOR'S CERTIFICATE

I, Charles Galati, do hereby certify that I am a Professional Land Surveyor and that I hold Certificate No. 734889 as prescribed by the laws of the State of Utah, and that I have caused to be made under my direction and by the authority of the owner, EMPIRE RESIDENCES, a Utah Condominium Project, in accordance with the provisions of the Utah Condominium Ownership Act. I further certify that the information shown hereon is correct.

ACKNOWLEDGMENT

This instrument was acknowledged before me this _____ day of _____ 2018 by _____ of Empire Residences LLC, a Utah limited liability company, the _____ of said company.

Notary Public _____

Printed Name _____

Residing in _____

My commission expires: _____

LEGAL DESCRIPTION

A parcel of land located in the southeast quarter of Section 21 and the northeast quarter of Section 28, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said parcel being more particularly described as follows:

Beginning at a point that is S 69°24' E 201.32 feet along section line and South 159.20 feet from the north quarter corner of Section 28, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said point being the northwestern corner of Shading Star Lodge, recorded November 24, 2004, as Entry No. 718034 in the Office of the Summit County Recorder and on the western boundary of said Shading Star Lodge, the Village at Empire Pass, the Village at Empire Pass Phase 1 Plat, recorded November 24, 2004, as Entry No. 718034; and running thence along the northerly boundary of said Shading Star Lodge, South 89°30'25" West 151.81 feet to a non-right angle of 125.55 feet, then along the radial point south South 89°30'25" East 114.91 feet; thence North 42°44'41" East 18.25 feet; thence North 03°30'11" East 28.18 feet; thence South 69°37'35" East 114.91 feet to a non-right angle of 125.55 feet, then along the radial point south South 89°30'25" East 114.91 feet; thence along the westerly boundary of Village Way, thence along the westerly boundary of Village Way the following (1) course: 71 westerly along the arc of said curve 29.23 feet through a centre point of 313.53 feet; thence 2) South 10°57'43" East 159.62 feet to the point of beginning.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS THAT EMPIRE RESIDENCES, LLC, a Utah limited liability company, the owner of the tract of land described herein as EMPIRE RESIDENCES, a Utah Condominium Project, located on said tract of land, hereby certifies that it has caused this survey to be made and this Condominium Plat containing of Sub (B) hereon to be prepared, and does hereby consent to the recording of this Plat and assigns the property to the Utah Condominium Ownership Act.

The owner certifies that the units shown on this plat, but not under construction at the time this plat was recorded, will, when completed, be in conformance with the approved Master Planned Development, Declaration of Condominium, recorded concurrently herewith, and the Land Management Code of Park City Municipal Corporation.

In witness whereof the undersigned has executed this certificate and declaration this _____ day of _____ 2018.

EMPIRE RESIDENCES, a Utah limited liability company,
By: _____
Title: _____

NOTES:

- The dimensions of the private spaces and square footage calculations are based on drawings supplied by Beecher Walker Architects. The square footage calculations on this plat are for informational purposes only and do not constitute a Declaration of Condominium for Empire Residences, a Utah Condominium Project. Such calculations typically differ somewhat from the square footage shown on the drawings used for construction of the units as they are based on the actual interior area of the units as they are constructed.
- The position of the north 1/4 corner of Section 28, Township 2 South, Range 4 East, Salt Lake Base and Meridian, is from the independent re-survey of Section 28, 29, 31, 32 & 33 performed by Richard Stern & Stern, Inc. in 2000 (Re-survey 28-31-32-33, Summit County Recorder's Office).
- All common structural elements are designated as Common Areas and Facilities, as described in the Declaration of Condominium.
- Building ties on this sheet are from the property line to the building foundation as shown.
- All Common Areas and Facilities are dedicated as non-exclusive easements to Park City Municipal Corporation, Snyderville Basin Water Reclamation District, Park City Fire Service District, and Summit County for the purpose of providing access for utility and drainage installation, use, maintenance, and eventual replacement.
- Access to the units is by private roads and is not warranted by Park City.
- The Empire Pass Master Owners Association, Inc. (the "Master Association") together with the Master Declaration of Condominium and Restrictions of Empire Pass, as amended (the "Master Declaration"), reserves the membership of each lot or unit owner. Members are subject to the terms of its articles of incorporation, bylaws, and regulations and other governing documents that may be established from time to time by the Master Association, including assessments and reimbursement fees as provided therein.
- The units of the Empire Residences Condominium Development are served by a Common Private Lateral Wastewater Line, the Empire Pass Master Owners Association, Inc. (the "Master Association") shall be responsible for the operation and replacement of said Private Lateral Wastewater Line serving Empire Residences, the cost of such maintenance and replacement shall be paid by the Empire Residences Owners Association, Inc. as part of the common expenses.
- The owner of Lot 3 hereby grants a non-exclusive easement over the approximately twenty feet (20') of Lot 3, as depicted on this plat as the "Cable LIFT Section" for the benefit of respondent Lot 4 to allow said lift maintenance access and the right to conduct repair activities, including to locate in-place safety devices.
- This plat also depicts the following easements, each of which may be amended, relocated or revised, without amendment hereto, in accordance with each such easement's terms:
a. Agreement and Covenant of Cooperation (Silt Access/Storm Drainage), Entry No. 655956, Summit County Recorder's Office which affects Lot 2 and Lot 3 of this plat.
b. Right-of-Way and Easement Grant (Gas Utility), Entry No. 735686, Summit County Recorder's Office.
c. Grant of Access Easement (Sewer Utility), Entry No. 850350, Summit County Recorder's Office.
d. Grant of Easement (Sewer Utility), Entry No. 718688, Summit County Recorder's Office.
e. Grant of Easement (Storm Drain Facilities), Entry No. 718403, Summit County Recorder's Office.
f. Reciprocal Easement Agreement (Easement and Access), Entry No. 1072156, Summit County Recorder's Office, describes the use of Easement Area A, Easement Area B, Easement Area C and Easement Area D.
- Public safety access and public utility easements are hereby dedicated for all public and private roadways and emergency access roads.
- The property is located within a water source protection zone. All sewer construction must comply with the State of Utah drinking water regulations.
- A ten foot (10') wide snow storage easement is hereby dedicated to the Master Association along the public and private road frontage.
- Village Way is a private road to be owned, operated, maintained and repaired by the Master Association for the use and benefit of the owners of property in Empire Pass at their volition in accordance with the Master Declaration. Village Way is not a public road or right-of-way.
- At the time of reurfacing of Village Way, the Master Association shall be responsible to adjust wastewater manholes to grade according to Snyderville Basin Water Reclamation District Standards. Prior to the adjustments and inspection by SBRWD is required.
- Fire sprinklers will be required within the dwelling.
- ADA/AFF Unit: Dual Restrooms/Employees/Affordable Housing Unit (DHR). ADA UNIT on Level One is designed as an ADA unit. AFF UNIT on Level One is designed as an Affordable Housing unit.
- All conditions of approval of the Village at Empire Pass (Post A) Master Planned Development, the Village at Empire Pass Phase 1 (the Empire Residences Conditional Use Permit), and Park City Ordinance 16-08 shall continue to apply.
- All conditions of approval of the Village at Empire Pass Master Planned Development, the Village at Empire Pass Phase 1 Plat, recorded November 24, 2004, as Entry No. 718034, Village at Empire Pass North Subdivision recorded _____ and the Empire Residences Conditional Use Permit, shall continue to apply.
- Utility structures such as ground sleeves and transformers and other dry utility boxes must be located on this property.
- This plat records a total of 4998 sq. ft. of residential unit area that is subject to the Unit Equivalent (UE) representing 24.5 UE.

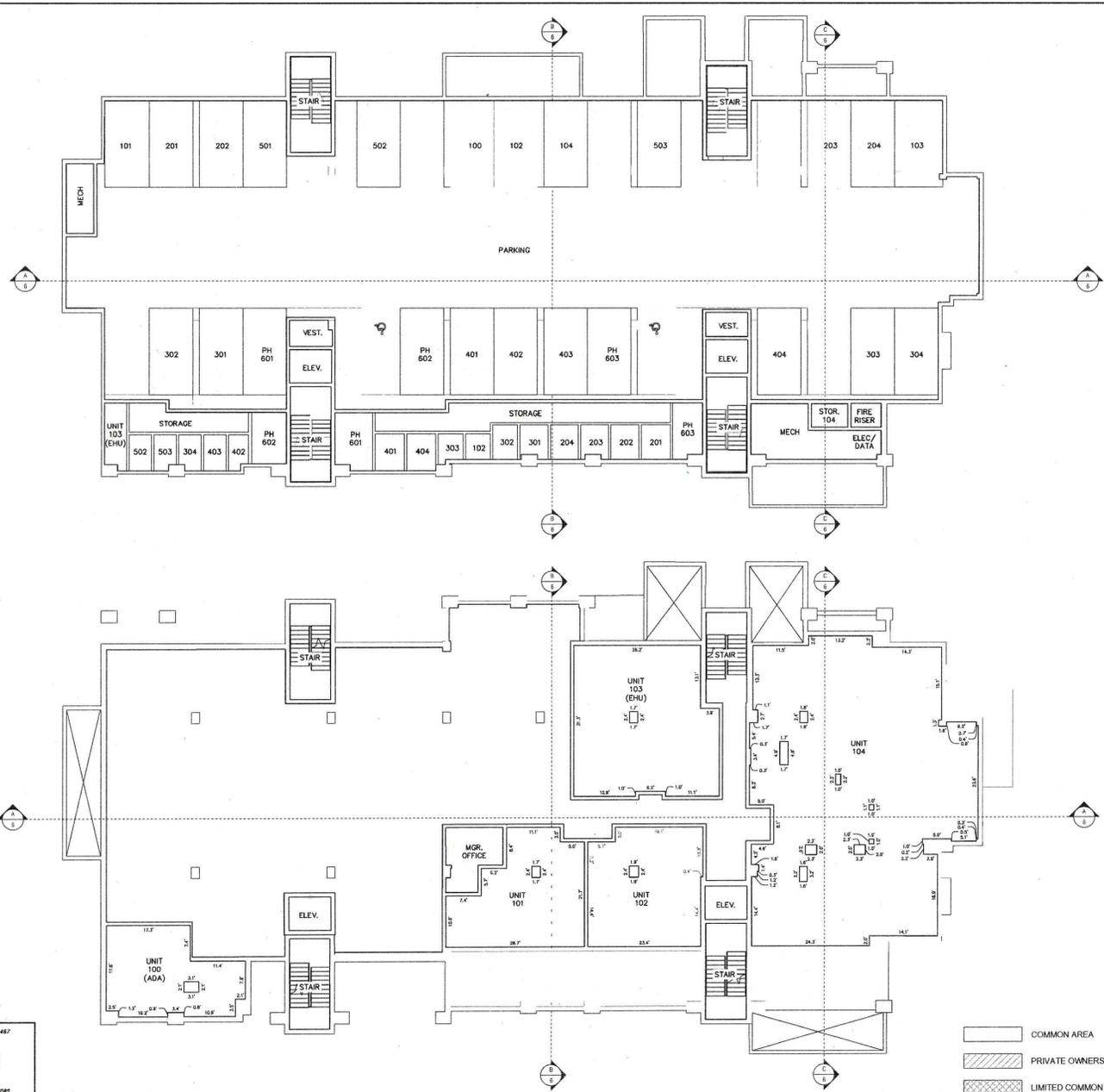
EMPIRE RESIDENCES

A UTAH CONDOMINIUM PROJECT

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 21 & THE NORTHEAST QUARTER OF SECTION 28 TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN PARK CITY, SUMMIT COUNTY, UTAH



NOT FOUND NE CORNER SECTION 28, T2S, R4E, S28M (CALCULATED POSITION OCCUPIED BY HOUSE)

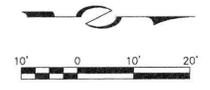


LEVEL P1
SCALE: 1" = 10'

LEVEL 1
SCALE: 1" = 10'

LEVEL 1 SQUARE FOOTAGE TABLE

UNIT	SQUARE FOOTAGE
UNIT 100 (ADA)	430 SF
UNIT 101	542 SF
UNIT 102	561 SF
UNIT 103 (EHU)	880 SF
UNIT 104	2521 SF



- COMMON AREA
- PRIVATE OWNERSHIP
- LIMITED COMMON OWNERSHIP

(435) 649-9467

Alvord Engineering

CONSULTING ENGINEERS LAND PLANNERS SURVEYORS

213 Main Street, P.O. Box 2084 • Park City, Utah 84060-2084

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11/25/17

RECORDED

STATE OF UTAH, COUNTY OF SUMMIT, AND FILED

AT THE REQUEST OF _____

FEE _____ RECORDER _____

TIME _____ DATE _____ ENTRY NO. _____