

Ordinance No. 2019-63

AN ORDINANCE APPROVING THE EMPIRE RESIDENCES FIRST AMENDED AND RESTATED CONDOMINIUM PLAT LOCATED AT 7697 VILLAGE WAY, PARK CITY, UTAH.

WHEREAS, the owners of the property known as the Empire Residences Condominiums, located at 7697 Village Way, petitioned the City Council for approval of the Empire Residences First Amended and Restated Condominium plat; and

WHEREAS, on November 27, 2019, the property was properly posted and legal notice was sent to all affected property owners; and

WHEREAS, on November 23, 2019, 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 December 11, 2019, to receive input on the Empire Residences First Amended and Restated Condominium plat;

WHEREAS, the Planning Commission, on December 11, 2019, forwarded a positive recommendation to the City Council; and,

WHEREAS, the City Council on December 19, 2019, held a public hearing and took final action on the condominium plat; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the Empire Residences First Amended and Restated 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 First Amended and Restated 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 affordable units 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) and is designated as private area and can be sold as an affordable unit or used for long term rental to qualified workers consistent with the Flagstaff Housing Mitigation Plan and applicable housing resolutions.
10. The property is located at 7697 Village Way.
11. Access to the property is from Village Way, a private street.
12. 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.
13. A Conditional Use Permit (CUP) for the building was approved on January 10, 2018.
14. The Empire Residences Condominium Plat Amendment was approved by City Council on February 1, 2018.
15. On October 21, 2019, the City received an application for the Empire Residences First Amended and Restated Condominium Plat Amendment. The application was deemed complete on October 31, 2019.
16. On December 11, 2019, the Planning Commission forwarded a positive recommendation to City Council.
17. On November 7, 2019 the City Council held a Study Session to consider the Historic Preservation obligations of Developers under the Flagstaff Development Agreement and compliance responsibilities.
18. At the November 7, 2019 Study Session, Council was presented with a Planning Department Staff Report which summarized an October 2019 report by SWCA Environmental Consultants titled Historic Preservation Plan Update for Flagstaff Mountain Resort in Park City.
19. The October 2019 SWCA Report and the November 7 Staff Report identified current deficiencies in historic preservation obligations and mitigation and/or maintenance work needed (Nov. 7 Staff Report Tables 2-5 and 9), identified additional suggested historic preservation work needed (Nov. 7 Staff Report Table 6), and found that immediate stabilization was needed on the Judge Mining and Smelting Building before the coming winter.
20. No decisions were made by Council at the November 7, 2019 Study Session and Council stated that the issues would be further addressed at a future work session. However, Council indicated that preservation of the historic mine site structures was a priority for the

Council. Also, that applications before the Planning Commission should continue to be addressed on a case-by-case basis.

21. City Council stated at the November 7, 2019 Study Session their desire to proactively work with responsible parties via a new Memorandum of Agreement to achieve compliance with the obligations of the Flagstaff Annexation and Development Agreement and Technical Reports 5 & 6, including continuing maintenance.
22. The currently proposed Memorandum of Agreement (MOA) has not yet been executed and its terms have not yet been finalized.
23. In the currently proposed MOA, developers Storied and REDUS agree in paragraph 3(b) to provide \$40,000 each into escrow for costs incurred by the Association to stabilize the Judge Mining and Smelting Building. This amount has not yet been determined to be adequate.
24. 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.
25. The building is currently under construction and the applicant is proposing the following amendments: reconfiguration of Units 102, 103, 302, 402, 403, and 601; reconfiguration of the storage units on the garage level; and assignment of the Commercial Space on Level P1 and Level 1.
26. Based on the unit sizes, a minimum of 30 parking spaces are required when taking into consideration the 25% parking reduction required by the Flagstaff Development Agreement and MPD.
27. 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.
28. Each unit has one assigned limited common parking space and the remaining spaces are common.
29. 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.
30. 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.

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 the 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 for the plat 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 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. The ADA unit shall be platted as common area.
6. 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 any issues or concerns that may have come up on other affordable units platted as private. The plat shall note that the EHU is subject to a deed restriction.
7. The CCRs shall limit the HOA dues related to the deed restricted employee housing unit (EHU) in order to ensure the Unit 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.
8. The ADA unit shall be platted as Common Area.

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

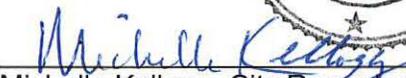
PASSED AND ADOPTED this 19th day of December, 2019.

PARK CITY MUNICIPAL CORPORATION




Andy Beerman, MAYOR

ATTEST:

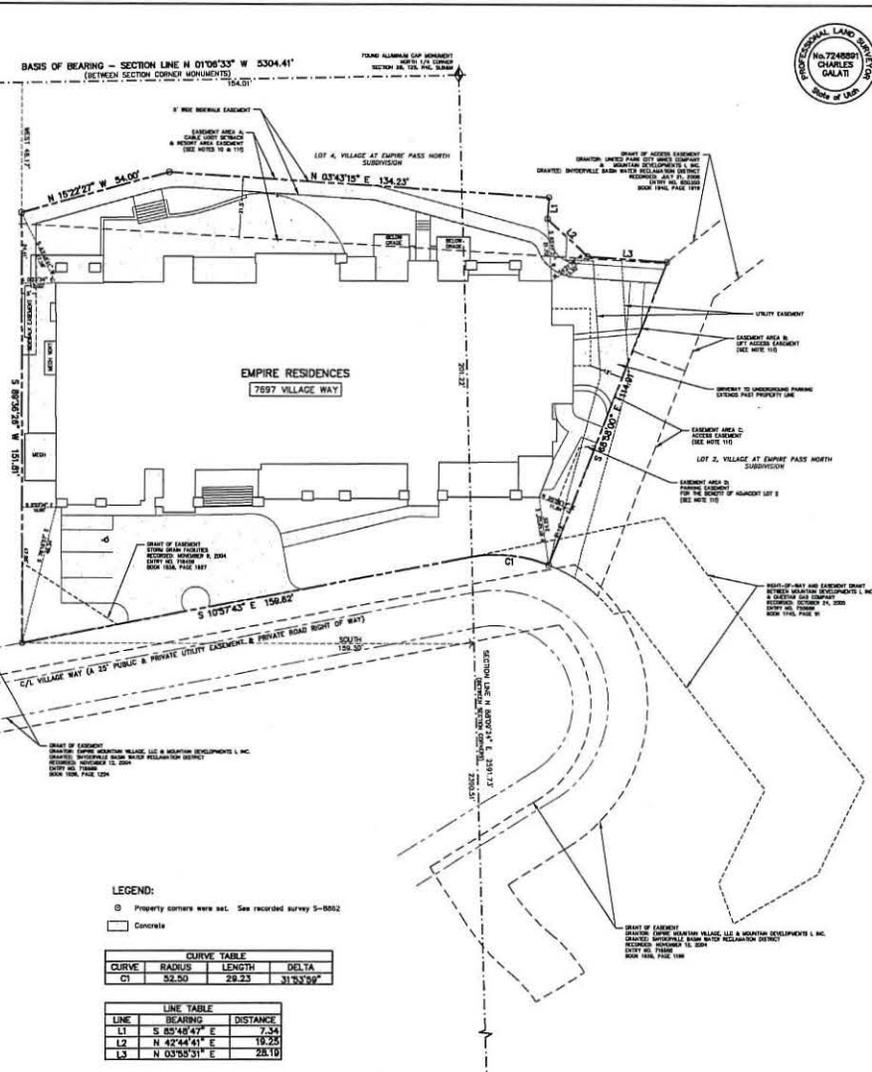
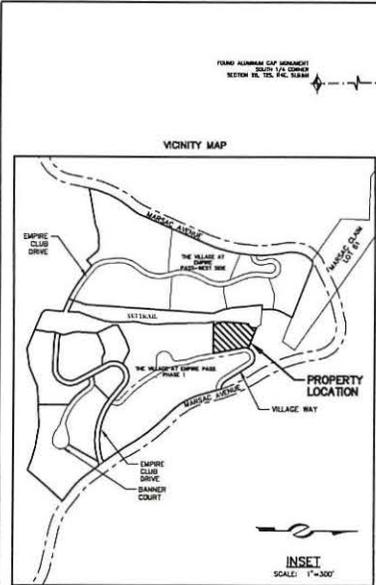

Michelle Kellogg, City Recorder

APPROVED AS TO FORM:


Margaret Plane, Special Counsel

Exhibits

Exhibit A – Condominium plat



LEGEND:

○ Property corners were set. See recorded survey S-0802

□ Concrete

CURVE TABLE			
CURVE	RADIUS	LENGTH	DELTA
C1	52.50	29.23	31°52'59"

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 89°48'47" E	7.34
L2	N 42°44'41" E	19.25
L3	N 03°50'51" E	28.19

EMPIRE RESIDENCES FIRST AMENDED AND RESTATED

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



SURVEYOR'S CERTIFICATE

I, Charles Galati, do hereby certify that I am a Professional Land Surveyor and that I hold Certificate No. 724880 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 FIRST AMENDED AND RESTATED, a Utah Condominium Project, in accordance with the provisions of the Utah Condominium Ownership Act. I further certify that the information shown herein is correct.

LEGAL DESCRIPTION

ALL OF UNITS 100 (ADA), 101, 102, 103, 104, 201, 202, 303, 304, 305, 306, 307, 308, 401, 402, 403, 404, 501, 502, 503, 601, 602 and 603 contained in the EMPIRE RESIDENCES, a Utah Condominium Project, together with an appurtenant undivided interest in land in the common areas and facilities of the project, as the same are identified and established in the record of Survey Map recorded August 31, 2018, as Entry No. 1097704, and in the Declaration of Condominium for EMPIRE RESIDENCES, recorded August 31, 2018, as Entry No. 1097703, in Book 2477, at Page 746, of the Official Records in the Office of the Summit County Recorder.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL BY THESE PRESENTS THAT EMPIRE RESIDENCES, LLC, a Utah limited liability company, the owner of the tract of land described herein as EMPIRE RESIDENCES FIRST AMENDED AND RESTATED, a Utah Condominium Project, located at Salt Lake City, Utah, hereby certifies that it has caused this survey to be made and this Condominium Plan to be prepared, and does hereby consent to the recording of this Plan and submit the property to the Utah Condominium Ownership Act.

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

In witness whereof the undersigned has executed this certificate and dedication this _____ day of _____, 2020.

EMPIRE RESIDENCES, LLC
a Utah limited liability company

By: TCC Energy, LLC, a Utah limited liability company
its managing member

By: _____
F. Lynn Patten, Manager

ACKNOWLEDGMENT

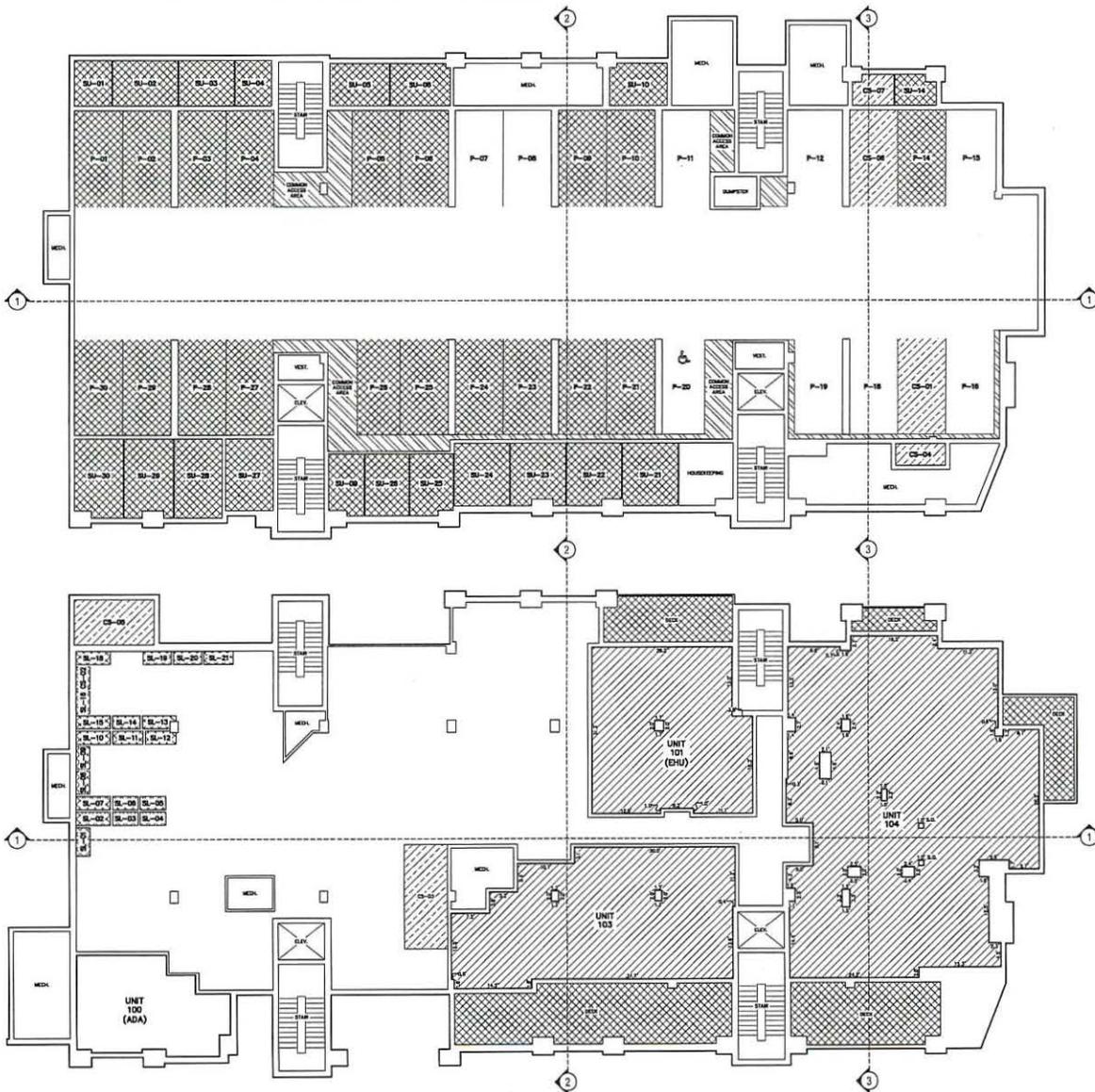
I, _____, _____
State of _____
County of _____

On this _____ day of _____, 2020, F. Lynn Patten personally appeared before me, whose identity is personally known to me or proven on the basis of satisfactory evidence, and who by me duly sworn, and who by me the Manager of TCC Energy, LLC, a Utah limited liability company, managing member of Empire Residences, LLC, a Utah limited liability company, and that said document was signed by him on behalf of said limited liability company as authorized by its Governing Agreement, or Resolution of its members, and he acknowledged to me that he executed EMPIRE RESIDENCES FIRST AMENDED AND RESTATED condominium plan.

A Notary Public Commissioned in _____
My commission expires: _____

- NOTES:**
- This plan is subject to the Conditions of Approval in Ordinance 2020-_____.
 - The dimensions of the private spaces and square footage calculations are based on drawings supplied by Beecher Weber Architects. The square footages shown on this plan are calculated in accordance with the Utah Condominium Act and the Declaration of Condominium for Empire Residences, a Utah Condominium Project. Such calculations typically differ somewhat from the square footages determined by the architect or others using different methods of determining unit area. It is the intent that the private ownership area of the units will be as constructed.
 - All areas outside of the building and within the property boundary are designated as common areas unless specified otherwise as limited common area on Sheets 2 through 8 of this condominium plan.
 - All common structural elements are designated as Common Areas and Facilities, as described in the Declaration of Condominium.
 - Building lines on this sheet are from the property line to the building foundation wall as shown.
 - All Common Areas and Facilities are dedicated as non-exclusive common areas 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 or maintained by Park City.
 - The Empire Residences Master Owners Association, Inc. (the Master Association) together with the Master Declaration of Condominium, Conditions, and Restrictions of Empire Residences, as amended (Master Declaration), requires the membership of each lot or unit owner. Members are subject to the terms of its articles of incorporation, bylaws, rules 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 Residences 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.
 - Empire Residences hereby grants a non-exclusive easement and access easement over the approximately 200' wide (20') easement on this plan as the "Cable Easement" for the benefit of subject Lot 4, Village of Empire Pass North Subdivision to allow all utility maintenance access and the right to conduct repair activities, including to locate necessary utility lines.
 - This plan depicts the following easements, each of which may be amended, relocated or revised, without amendment hereto, in accordance with each easement's terms:
 - a. Agreement and Covenant of Cooperation (Soi Access/Storm Drainage), Entry No. 655256, Summit County Recorder's Office which affects Lot 2, Village of Empire Pass North Subdivision and Empire Residences at this plan.
 - b. Right-of-Way and Easement Grant (See Utility), Entry No. 718088, Summit County Recorder's Office.
 - c. Grant of Easement (Sewer Utility), Entry No. 855303, 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. 718459, Summit County Recorder's Office.
 - f. Restricted Easement Agreement (Easement and Access), recorded June 28, 2017, as Entry No. 1077154, in Book 2415 at Page 1416, 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.
 - A ten foot (10') wide snow storage easement is hereby dedicated to the Master Association and the public along the 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 Volley in accordance with the Master Declaration. Village Way is not a public road or right-of-way.
 - At the time of re-landscaping of Village Way, the Master Association shall be responsible to adjust wastewater manholes to grade according to Snyderville Basin Water Reclamation District Standards. Prior notification of the adjustments and inspection by SBWD is required.
 - Fire sprinklers will be required within the dwelling.
 - ADA/DHU Unit: Deed Restricted Employee/Affordable Housing Unit (EHA). ADA UNIT on Level One is designed as an ADA unit. EHA UNIT on Level One is designed as an Employee/Affordable Housing unit.
 - All conditions of approval of the Village of Empire Pass (Part A) Master Planned Development, Village of Empire Pass North Subdivision, approved in Ordinance 2017-30, and recorded January 23, 2018, as Entry No. 1085414, and the Empire Residences Conditional Use Permit, dated January 10, 2018, shall continue to apply.
 - Utility structures such as ground sleeves and transformers and other dry utility boxes must be located on this property.
 - This plan records a total of 48,998 square feet of residential unit area that is subject to the Unit Equivalent (UE) representing 24,499 UE.
 - The EHA is subject to a deed restriction, recorded on August 31, 2018 as Entry No. 1097707.

<p>(435) 648-8467</p>	SNYDERVILLE BASIN WATER RECLAMATION DISTRICT REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2020 BY _____ S.B.W.R.D.	PLANNING COMMISSION APPROVED BY THE PARK CITY PLANNING COMMISSION THIS _____ DAY OF _____, 2019 BY _____ CHAIR	ENGINEER'S CERTIFICATE I FIND THIS PLAN TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2020 BY _____ PARK CITY ENGINEER	APPROVAL AS TO FORM APPROVED AS TO FORM THIS _____ DAY OF _____, 2020 BY _____ PARK CITY ATTORNEY	COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2020 BY _____ MAYOR	CERTIFICATE OF ATTEST I CERTIFY THIS CONDOMINIUM PLAN WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2020 BY _____ PARK CITY RECORDER	RECORDED STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ FEE _____ RECORDER _____ TIME _____ DATE _____ ENTRY NO. _____
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LIMITED COMMON OWNERSHIP ASSIGNMENT

UNIT NUMBER	PARKING STALL	STORAGE UNIT	SKI LOCKER
100 (ADA)	P-30	-	SL-18
101 (EHU)	P-16	-	-
103	P-01	SU-01	SL-08
104	P-09	SU-09	SL-11
201	P-04	SU-04	SL-03
202	P-30	SU-30	SL-04
203	P-14	SU-14	SL-09
204	P-24	SU-24	SL-18
301	P-27	SU-27	SL-01
303	P-23	SU-23	SL-06
304	P-22	SU-22	SL-10
401	P-25	SU-25	SL-13
402	P-02	SU-02	SL-14
403	P-06	SU-06	SL-21
404	P-10	SU-10	SL-15
501	P-28	SU-28	SL-19
502	P-29	SU-29	SL-05
503	P-03	SU-03	SL-20
601	P-05	SU-05	SL-02
802	P-26	SU-26	SL-07
803	P-21	SU-21	SL-12

COMMERCIAL SPACE SQUARE FOOTAGE TABLE

UNIT NUMBER	SQUARE FOOTAGE
CS-01	182 SF
CS-02	11 SF
CS-03	158 SF
CS-04	37 SF
CS-05	127 SF
CS-06	162 SF
CS-07	43 SF

LEVEL 1 SQUARE FOOTAGE TABLE

UNIT NUMBER	SQUARE FOOTAGE
100 (ADA)	447 SF
101 (EHU)	880 SF
103	1,169 SF
104	2,532 SF

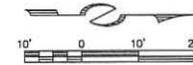
OWNERSHIP LEGEND

- COMMON AREA
- PRIVATE OWNERSHIP
- LIMITED COMMON OWNERSHIP
- COMMERCIAL SPACE
- COMMON ACCESS AREA

ABBREVIATION LEGEND

- ELEV. = ELEVATOR
- MECH. = MECHANICAL
- EHU = EMPLOYEE/AFFORDABLE HOUSING UNIT
- CS = COMMERCIAL SPACE
- SU = STORAGE UNIT
- SL = SKI LOCKER
- P = PARKING STALL

EMPIRE RESIDENCES
FIRST AMENDED AND RESTATED
 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



Alliance Engineering Inc.
 CONSULTING ENGINEERS LAND PLANNERS SURVEYORS
 282 Main Street P.O. Box 2884 Park City, Utah 84060-2884
 (435) 648-9487

PAGE 2 OF 5
 JOB NO.: 14-9-18 FILE: k:\2\m\k\sl\sl\140221\140218-Exp Res-1st amended & restated.dwg
 RECORDED
 STATE OF UTAH, COUNTY OF SUMMIT, AND FILED
 AT THE REQUEST OF _____
 FEE _____ RECORDER _____
 TIME _____ DATE _____ ENTRY NO. _____

