

Ordinance No. 15-04

AN ORDINANCE APPROVING THE SECOND AMENDMENT TO CONDOMINIUM PLAT THE HOTEL AND RESIDENCES AT EMPIRE CANYON RESORT A UTAH CONDOMINIUM PROJECT, LOCATED AT 9100 MARSAC AVENUE, PARK CITY, UTAH.

WHEREAS, owners of the property known as The Hotel and Residences at Empire Canyon Resort, a Utah Condominium Project, (aka Montage Deer Valley Resort and Spa) located at 9100 Marsac Avenue, have petitioned the City Council for approval of an amended condominium plat to change the platted ownership designation of a 1,409 square foot existing interior space on Level 1 (page 6 of 18) from "non-condominium property/ restricted area" to "non-condominium property/hotel area and to change an adjacent approximately 5,600 sf of existing interior area on Level 1 to remove walls that were never constructed but are shown on the recorded plat. No ownership designation change is proposed for this 5,600 sf area.

WHEREAS, the property was properly noticed and posted on December 30, 2014, according to requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners on December 30, 2014; and

WHEREAS, the Planning Commission held a public hearing on January 14, 2015, to receive input on the amended condominium plat; and

WHEREAS, the Planning Commission, on January 14, 2015, forwarded a positive recommendation to the City Council; and,

WHEREAS, on February 12, 2015, the City Council held a public hearing on the amended condominium plat; and

WHEREAS, it is in the best interest of Park City, Utah to approve the Second Amended Hotel and Residences at Empire Canyon Resort Condominiums record of survey plat.

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 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 located at 9100 Marsac Avenue.

2. The property is zoned RD-MPD and is subject to the 2007 Amended and Restated Flagstaff Annexation Development Agreement and the Village at Empire Pass MPD.
3. The property consists of a nine story hotel/condominium building constructed in 2008-2009.
4. The existing building at 9100 Marsac Avenue, known as the Montage Deer Valley Resort and Spa, was constructed in 2008-2009.
5. On March 14, 2007, the Planning Commission approved a Master Planned Development (MPD) for Pod B-2 of the Flagstaff Development Agreement. The MPD is known as the Village at Empire Pass MPD. On March 14, 2007, the Planning Commission also approved a Conditional Use Permit for phase one of the MPD, which is the Montage Deer Valley Resort and Spa.
6. On March 29, 2007, the City Council approved the three lot Parcel B-2 Empire Village Subdivision final plat. Lot C of the subdivision plat is the location of the Montage Resort and Spa.
7. On June 18, 2009, the City Council approved the Hotel and Residences at Empire Canyon Resort condominium record of survey plat for the Montage Resort and Spa. Talisker Empire Pass Hotel, LLC is the fee simple owner of the land and DV Luxury Resort, LLC has a 999-year leasehold interest. The original record of survey plat was recorded at Summit County on January 20, 2010.
8. The condominium record of survey plat identifies 174 hotel rooms and 84 condominiums utilizing 182 Unit Equivalents. In addition, the record of survey memorializes 59,765 square feet of commercial space and approximately 15,000 square feet of meeting rooms. No support commercial was proposed other than room service, which does not utilize additional space. Back of house, pre-function meeting support, and residential accessory uses were memorialized.
9. On January 6, 2011, the City Council approved the First Amended Hotel and Residences at Empire Canyon Resort record of survey plat to amend sheets 1, 8, 9, and 11 to 1) address JSSD access easements, 2) address Rocky Mountain Power underground easements, 3) correct the square footage of Unit 740, 4) move the ADA designation for Unit 821 to Unit 1021, and 5) to amend unit numbering for Units 1040-1043. The First Amended Hotel and Residences at Empire Canyon Resort record of survey plat was recorded at Summit County on June 23, 2011.
10. On November 10, 2014, an application was submitted for a second amendment to the Hotel and Residences at Empire Canyon Resort record of survey plat. The application was deemed complete on November 18, 2014.
11. The condominium plat amendment is required in order to reflect as-built conditions on Level One and to change the ownership designation of an existing interior area that had been intended to be finished as a fine dining restaurant. The owners desire to utilize this 1,409 sf area for pre-function meeting support.
12. The proposed uses and amended condominium plat are consistent with the Village at Empire Pass MPD and the Montage CUP as there is no increase in residential or commercial density, no change in allowed meeting space, and no increase in parking requirements. The decrease in commercial and increase in support meeting space are not inconsistent with the MPD or CUP approvals and do not exceed the approved allowances for these uses.

13. The plat amendment does not increase the existing building footprint, existing interior floor area, or density of commercial or residential units. Commercial area decreases by 1,409 sf to 58,356 sf and pre-function meeting room support increases by 1,409 sf from 15,000 sf to 16,409 sf which is less than the 39,000 sf allowed by the MPD.
14. No non-complying situations are created with the plat amendment and there is no increase in parking requirements. No common areas or privately owned residential areas are proposed to change with the plat amendment.
15. The proposed plat amendment is consistent with the Amended and Restated Development Agreement for Flagstaff Mountain (March 2007).
16. No changes to the exterior of the building are proposed.
17. Any changes in occupancy or changes in tenant finishes of existing interior spaces within the building require review by the Building Department for compliance with requirements of the IBC, Fire code, and ADA.

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 condominium plat for compliance with State law, the Land Management Code, and any conditions of approval, prior to recordation of the plat.
2. The applicant will record the 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 an extension request is made in writing prior to the expiration date and the extension is granted by the City Council.
3. All conditions of approval of the Amended and Restated Flagstaff Annexation Development Agreement (March 2007) and the Village at Empire Pass Master Planned Development for the Hotel and Residences at Empire Pass, also known as the Montage MPD, shall continue to apply and a note shall be included on the plat referring to these MPDs.
4. All required ADA access, occupancy loads for assembly spaces, and other specific Building and Fire Code requirements, including requirements for restrooms, for any changes or tenant finishes to the existing spaces shall be addressed with tenant improvement building permits prior to commencing any interior construction work.

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

PASSED AND ADOPTED this 12 day of February, 2015.

PARK CITY MUNICIPAL CORPORATION



Jack Thomas, MAYOR

ATTEST:



Marci Heil, City Recorder

APPROVED AS TO FORM:



Mark Harrington, City Attorney

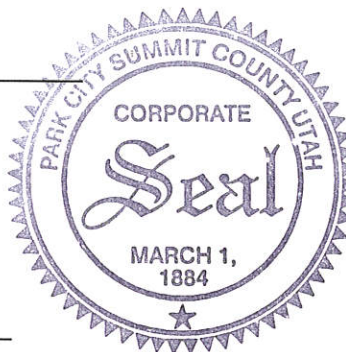


EXHIBIT A

LEGEND

- COMMON AREA EASEMENT/ ACCESS AREA
- NON-CONDOMINIUM PROPERTY/ HOTEL AREA
- NON-CONDOMINIUM PROPERTY/ RESTRICTED AREA

INSET NORTHWESTERLY WING

KEY PLAN

LEVEL 1
FLOOR LEVEL ELEVATION 6,342.0

NOTE
This map is subject to the Condominium Plat of the Hotel & Residences at Empire Canyon Resort located at the same site. All other maps and documents filed with the Utah State Office of Public Safety, Division of Real Estate, shall be read in conjunction with this map. The map is subject to the terms and conditions of the Condominium Plat of the Hotel & Residences at Empire Canyon Resort.

SURVEYOR'S CERTIFICATE
I, Mark A. Hartman, certify that I am a Registered Land Surveyor and that I have prepared this map in accordance with the laws of the State of Utah, and I have caused it to be made and filed by myself or by a duly qualified person in my presence and in the presence of two disinterested witnesses. I have caused this map to be made and filed in accordance with the provisions of Section 37-18-13 (1) of the Utah Condominium Ownership Act.

GROUND LESSEE'S DEDICATION AND CONSENT TO RECORD
I, _____, do hereby dedicate and consent to record the above described property to the use of the Hotel & Residences at Empire Canyon Resort, a Utah Condominium Project, in accordance with the provisions of Section 37-18-13 (1) of the Utah Condominium Ownership Act.

ACKNOWLEDGMENT
I, _____, do hereby acknowledge before me this _____ day of _____, 2015, that _____, a business entity, is the owner of the above described property and that the above described property is being dedicated and consented to record to the use of the Hotel & Residences at Empire Canyon Resort, a Utah Condominium Project, in accordance with the provisions of Section 37-18-13 (1) of the Utah Condominium Ownership Act.

OWNER'S DEDICATION AND CONSENT TO RECORD
I, _____, do hereby dedicate and consent to record the above described property to the use of the Hotel & Residences at Empire Canyon Resort, a Utah Condominium Project, in accordance with the provisions of Section 37-18-13 (1) of the Utah Condominium Ownership Act.

ACKNOWLEDGMENT
I, _____, do hereby acknowledge before me this _____ day of _____, 2015, that _____, a business entity, is the owner of the above described property and that the above described property is being dedicated and consented to record to the use of the Hotel & Residences at Empire Canyon Resort, a Utah Condominium Project, in accordance with the provisions of Section 37-18-13 (1) of the Utah Condominium Ownership Act.

SECOND AMENDMENT TO CONDOMINIUM PLAT
THE HOTEL & RESIDENCES AT EMPIRE CANYON RESORT
A UTAH CONDOMINIUM PROJECT
LOCATED IN THE WEST 1/4 OF SECTION 28, AND THE EAST 1/4 OF SECTION 29 TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASIN 14, MOUNTAIN PLATEAU

PLANNING COMMISSION
APPROVED BY THE PARK CITY PLANNING COMMISSION THIS _____ DAY OF _____, 2015.
BY _____ CHAIR

ENGINEER'S CERTIFICATE
I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2015.
BY _____ PARK CITY ENGINEER

APPROVAL AS TO FORM
APPROVED AS TO FORM THIS _____ DAY OF _____, 2015.
BY _____ PARK CITY ATTORNEY

CERTIFICATE OF ATTEST
I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2015.
BY _____ PARK CITY RECORDER

COUNCIL APPROVAL AND ACCEPTANCE
APPROVED AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2015.
BY _____ MAYOR

SNYDERVILLE BASIN WATER RECLAMATION DISTRICT
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2015.
BY _____ SEWER

RECORDED
STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____
ENTRY NO. _____ FILE _____ RECORDS _____