

Ordinance No. 2019-58

**AN ORDINANCE APPROVING THE ARGENT AT EMPIRE PASS CONDOMINIUMS
LOCATED AT 7677 VILLAGE WAY, PARK CITY, UTAH.**

WHEREAS, the owners of the property known as the Argent at Empire Pass Condominiums, located at 7677 Village Way, petitioned the City Council for approval of the Argent at Empire Pass Condominiums Plat; and

WHEREAS, on September 25, 2019, the property was properly posted and legal notice was sent to all affected property owners; and

WHEREAS, on September 25, 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 opened the Public Hearing on October 9, 2019, and continued the item to after a November 7, 2019 Study Session to consider compliance matters regarding Technical Reports 5 & 6 as part of the proposed Memorandum of Agreement with the Master Owners Association;

WHEREAS, the Planning Commission, on November 13, 2019, continued the Public Hearing on the Condominium Plat and forwarded a positive recommendation to the City Council; and,

WHEREAS, the City Council on December 5, 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 Argent at Empire Pass Condominiums consistent with the Village at Empire Pass Master Planned Development Agreement and the Argent at Empire Pass Condominiums 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 Argent at Empire Pass Condominiums 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 was originally part of 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 770 UEs and 16 single family units have been platted and/or built including the Argent at Empire Pass Condominiums.
6. Constructed lodge style buildings include Shooting Star (Building 2), One Empire Pass (Building 5), Silver Strike (Building 6), Flagstaff Lodge (Building 7), Arrowleaf A and B (Buildings 8 & 9). Empire Residences (Building 3) and the Condominiums at the Tower (Building 1) are currently under construction.
7. There is sufficient density remaining within the VE MPD for the proposed 28 units (32 UE).
8. 572 UE 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 105 affordable units are completed and have certificates of occupancy (89 units are off-mountain and 16 units are on-mountain).
9. As part of the Argent at Empire Pass Condominiums CUP 2.0 AUE (1600 sf) is required by the subdivision plat for this lot. The affordable units consists of an 815 sf studio and a 803 sf one bedroom unit 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. On July 22, 2019, the Planning Department received an application for a both a Condominium Plat and a Conditional Use Permit for a twenty-eight (28) unit residential building to be located on Lot 2 of the Village at Empire Pass North Subdivision. The applications were deemed complete on August 22, 2019 and are currently under review by the Planning Commission.
11. The property is located at 7677 Village Way and is known as Lot 2 of The Village at Empire Pass North Subdivision, approved by Council on June 15, 2017.
12. Access to the property is from Village Way, a private street.
13. Lot 2 consists of 2.01 acres or 87,556 square feet and is currently undeveloped.
14. 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.
15. 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.
16. The condominium plat identifies 28 private residential units totaling 63,993 sf, utilizing up to 32 UE. The units range in size from 1,506 sf to 3,927 sf. The 801 sf ADA accessible one bedroom unit is identified as common area. The 815 and 803 sf deed restricted units are identified as private area.
17. No commercial uses are proposed in the building.

18. Based on the unit sizes, a minimum of 39 parking spaces are required when taking into consideration the 25% parking reduction required by the Flagstaff Development Agreement and MPD.
19. An underground parking structure provides 35 parking spaces, including 2 ADA spaces, as well as limited common storage areas for some unit. Four surface spaces are provided for a total of 39 parking spaces.
20. All parking spaces will remain Common Area on the Plat but each unit will be assigned one stall and the rest will be kept as common usage.
21. 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.
22. The application is in compliance with the location, density and affordable housing requirements of the Development Agreement as they apply to this lot, the VEP MPD approved in 2004, and The Village at Empire Pass North Subdivision Plat approved in 2017.
23. 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.
24. 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.
25. The October 2019 SWCA Report and the November 7, 2019 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.
26. 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.
27. 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.
28. The currently proposed Memorandum of Agreement (MOA) has not yet been executed and its terms have not yet been finalized.
29. 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.
30. This applicant, East West Partners for the Argent at Empire Pass, is not a signatory to the proposed MOA.

31. The Applicant agrees to use its best efforts to encourage the Empire Pass Master Owners Association to work to expeditiously complete and continue its preservation and maintenance obligations of the Flagstaff Development Agreement and Technical Reports 5 & 6, and will cooperatively work with the City to achieve actual compliance.
32. Prior to Plat recording, the applicant has agreed to voluntarily contribute \$20,000 to Historic Preservation efforts in the Flagstaff Development Area, to be held in escrow by the City.
33. A Residences at the Tower Condominiums Plat Condition of Approval requires finalizing that MOA prior to the recordation of the Twisted Branch Road Subdivision Plat.
34. 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.
35. 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 the 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 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 Empire Pass Lot 2 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 Empire Pass Lot 2 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 housing units shall be a minimum of 815 and 803 sf respectively, to meet the plat note requirement of 2.0 AUE for this lot. One AUE is equivalent to 800 sf according to the Development Agreement.
6. Deed Restrictions for the restricted units, approved by the City in accordance with the applicable Housing Resolution, shall be recorded prior to Plat recordation. The deed restrictions 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 units in order to ensure the units 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 such 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.
 9. Prior to plat recording, the applicant has agreed to voluntarily contribute \$20,000 to Historic Preservation efforts in the Flagstaff Development Area, which will be held by the City in escrow.

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

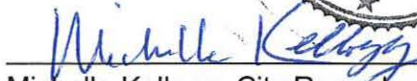
PASSED AND ADOPTED this 5th day of December, 2019.

PARK CITY MUNICIPAL CORPORATION

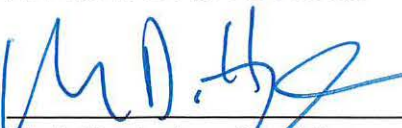



Andy Beerman, MAYOR

ATTEST:


Michelle Kellogg, City Recorder

APPROVED AS TO FORM:


Mark Harrington, City Attorney

Exhibits

Exhibit A – Condominium Plat



SURVEYORS CERTIFICATE

I, Michael Demack, do hereby certify that I am a Professional Land Surveyor and that I hold License No. 452728 as provided by the State of Utah and that I have caused to be made under my direction and by the authority of the owner, ARGENT AT EMPIRE PASS NORTH LLC, a Delaware limited liability company, the plat and the provisions of the Utah Condominium Ownership Act. I further certify that the information shown herein is correct.

BOUNDARY DESCRIPTION

All of LOT 2, VILLAGE AT EMPIRE PASS NORTH SUBDIVISION, according to the official plat thereof, on file and of record in the office of the Summit County Recorder, Summit County, Utah.

NOTES

- 1. The dimensions of the private spaces and egress footage calculations are based on drawings supplied by the Group. The square footages shown on this plat are calculated in accordance with the Condominium Act and the Declaration of Condominium for ARGENT AT EMPIRE PASS NORTH SUBDIVISION, a Utah Condominium Project. Such calculations typically differ somewhat from the square footage determined by the architect or others using different methods of determining unit size. It is the intent that the private generally areas of the units will be as contracted.
- 2. All common structural elements are designated as Common Areas and Facilities, as described in the Declaration of Condominium.
- 3. Building Use on this sheet are from the property line to the building foundation as shown.
- 4. All Common Areas and Facilities are dedicated to non-exclusive use to the Park City Municipal Corporation, Sanpete 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.
- 5. Access to the units is by private roads and is not warranted by Park City.
- 6. The units of the ARGENT AT EMPIRE PASS NORTH SUBDIVISION are served by a Common Private Lateral Sewerage Line. The ARGENT AT EMPIRE PASS NORTH SUBDIVISION Master Owners Association, Inc. (the "Master Association") shall be responsible for the construction and maintenance of said Private Lateral Sewerage Line serving ARGENT AT EMPIRE PASS NORTH SUBDIVISION. The cost of such construction and maintenance shall be paid by the ARGENT AT EMPIRE PASS NORTH SUBDIVISION Master Owners Association, Inc. as part of the common expenses.
- 7. Units DAP-A & DAP-B: Said Restricted Employee/Affordable Housing Act (EDA), Unit 102 on Level One is designed as an ADA unit.
- 8. All conditions of approval of the Village of Empire Pass (Pot A) Master Planned Development, approved July 28, North Village at Empire Pass Master Planned Development, the Village at Empire Pass North Subdivision Plat, recorded January 23, 2010 on Entry Number 1005414, the Argent Conditional Use Permit, dated _____ 2019 and Park City Ordinance _____ shall continue to apply.
- 9. Utility structures such as ground wires and transformers and other dry utility boxes must be located on the lot.
- 10. The Empire Pass Master Owners Association, Inc. (the "Master Association") together with the Master Declaration of Condominium, Conditions, and Restrictions of Empire Pass, as amended ("Master Declaration"), requires the membership of each 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.
- 11. Owners and potential buyers of any unit or lot within the lots depicted on this plat are given notice that they own or use building property in a resort area in which off-season resort activities are conducted and where certain risks are present, including, without limitation, damage to property and improvements and personal injury and death caused by forest fires, landslides and other resort related activities, equipment, machine-made snow, heavy winter/spring winds, heavy snow, wind, and falling ice, and other conditions that may affect the enjoyment of the property. The applicant will report and its facilities are not amenities of any master association but are owned by a private resort and access to such lands and facilities is governed by such owner or agreements with such owner.
- 12. 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 of Deer Valley in accordance with the Master Declaration. Village Way is not a public road or right-of-way.
- 13. Lot 2 hereby grants a non-exclusive resort and access easement over the western edge of the property as depicted on this plat as the "V" Way Sub Easement. This easement is for the benefit of Lot 4 Village at Empire Pass North Subdivision for resort operations and trail maintenance and for the benefit of the Lot 12 Village at Empire Pass Westside Subdivision (One Empire Pass Condominiums) properly owners, invitees and guests for purposes of all and pedestrian access.
- 14. Lot 2 hereby grants a non-exclusive easement near the western edge of the property as depicted on this plat as the "U" Valley Buffer Zone. This easement is for the benefit of Lot 4 Village at Empire Pass North Subdivision providing that without prior written consent of owner of Lot 4 no above-ground building, trees or other landscaping structures may be constructed or maintained in the Valley Buffer Zone.
- 15. This plat records a total of 83,993 SF of Residential Unit area that is subject to the Unit Equipment (UE) representing 31.09 UC. Units DAP-A & DAP-B at the basement level & unit 105 ADA at level one are excluded from the number.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that LOT 2 EMPIRE PASS NORTH LLC, a Delaware limited liability company, the undersigned owner of the herein described tract of land, to be known hereafter as ARGENT AT EMPIRE PASS NORTH SUBDIVISION, does hereby certify that it has caused this Plat to be prepared, and does hereby consent to the recording of this condominium plat to be prepared, and does hereby consent to the recording of this condominium plat.

ALSO, the owner or its representative, hereby irrevocably offers for dedication to Park City of all easements and required utilities and easements shown on this condominium plat in accordance with an irrevocable offer of dedication.

In witness whereof, the undersigned set his hand this _____ day of _____ 2019.

LOT 2 EMPIRE PASS NORTH LLC,
a Delaware limited liability company,
By _____
Name: _____
Title: _____

ACKNOWLEDGMENT

STATE OF UTAH)
COUNTY OF SUMMIT)

On this _____ day of _____ 2019, _____ personally appeared before me, whose identity is personally known to me or proven on the basis of satisfactory evidence, and who by me duly seen/affirmed, did say that he/she is the _____ of LOT 2 EMPIRE PASS NORTH LLC, a Delaware limited liability company, and that said document was signed by him/her on behalf of said limited liability company by authority of its Operating Agreement or Resolutions of its members, and he acknowledged to me that he executed ARGENT AT EMPIRE PASS NORTH SUBDIVISION.

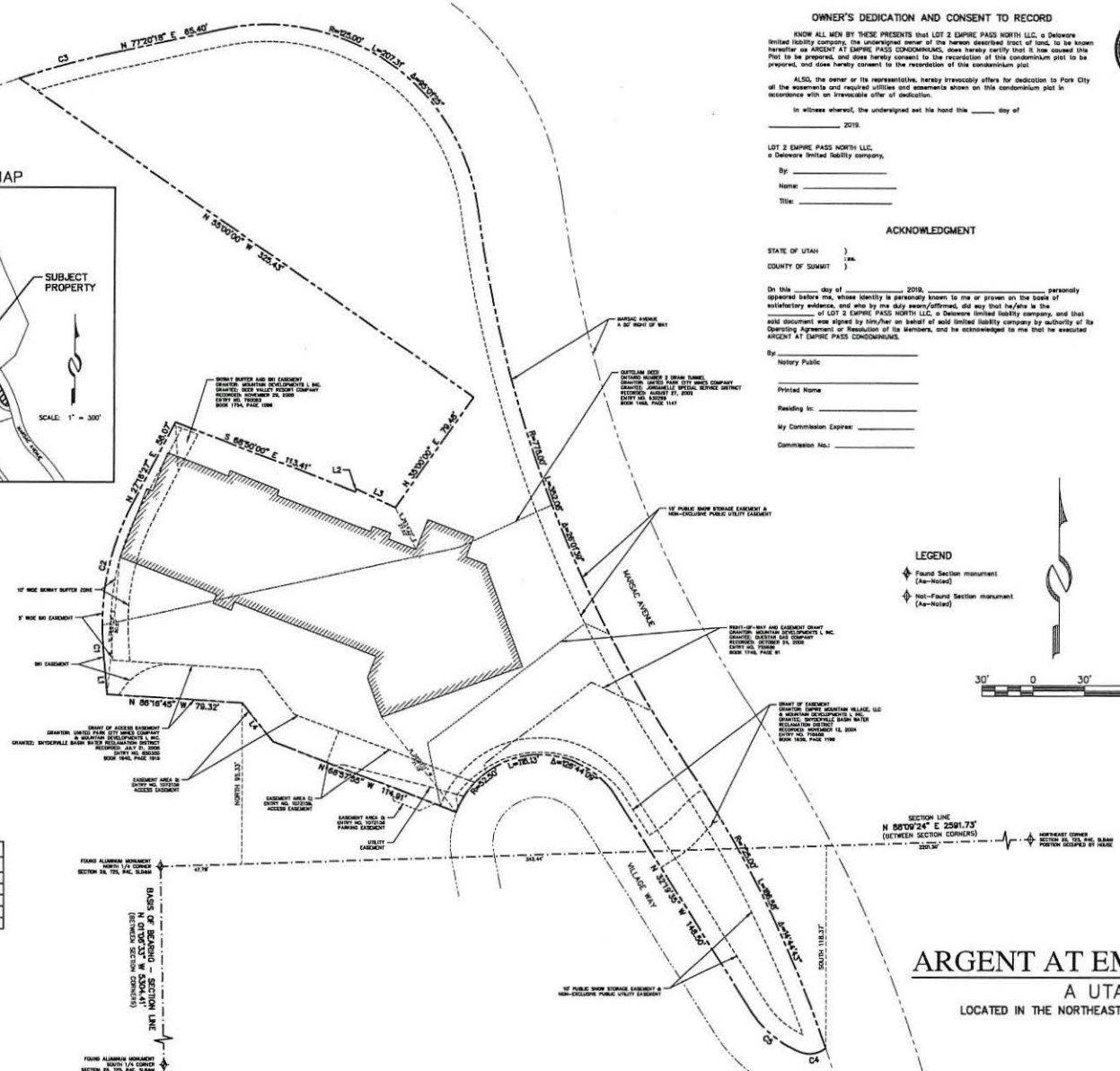
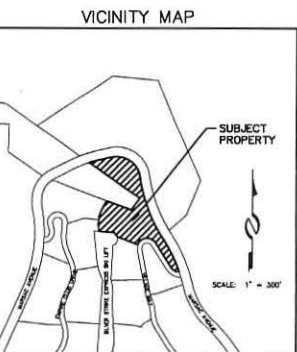
By _____
Notary Public
Printed Name _____
Residing in _____
My Commission Expires _____
Commission No. _____

LEGEND

- Found Section monument (As-Noted)
- Not-Found Section monument (As-Noted)



ARGENT AT EMPIRE PASS CONDOMINIUMS
A UTAH CONDOMINIUM PROJECT
LOCATED IN THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH



LINE TABLE

LINE	DIRECTION	LENGTH
L1	N 05°33'11" W	17.15'
L2	N 11°45'46" E	1.83'
L3	S 84°00'09" E	29.34'
L4	N 38°03'39" W	29.36'

CURVE TABLE

CURVE	RADIUS	LENGTH	DELTA
C1	306.00'	26.22'	03°31'49"
C2	150.00'	75.63'	20°37'37"
C3	579.00'	85.52'	00°31'59"
C4	15.00'	18.07'	81°23'47"
C5	82.50'	38.43'	38°17'44"



PUBLIC SAFETY
ANSWERING POINT APPROVAL
APPROVED THIS _____ DAY
OF _____ 2019
BY _____
SUMMIT COUNTY GIS COORDINATOR

SNYDERVILLE BASIN WATER RECLAMATION DISTRICT
REVIEWED FOR COMPLIANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____ 2019
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 PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____ 2019
BY _____
PARK CITY ENGINEER

APPROVAL AS TO FORM
APPROVED AS TO FORM THIS _____ DAY OF _____ 2019
BY _____
PARK CITY ATTORNEY

COUNCIL APPROVAL AND ACCEPTANCE
APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____ 2019
BY _____
MAYOR

CERTIFICATE OF ATTEST
I CERTIFY THIS CONDOMINIUM PLAT WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____ 2019
BY _____
PARK CITY RECORDER

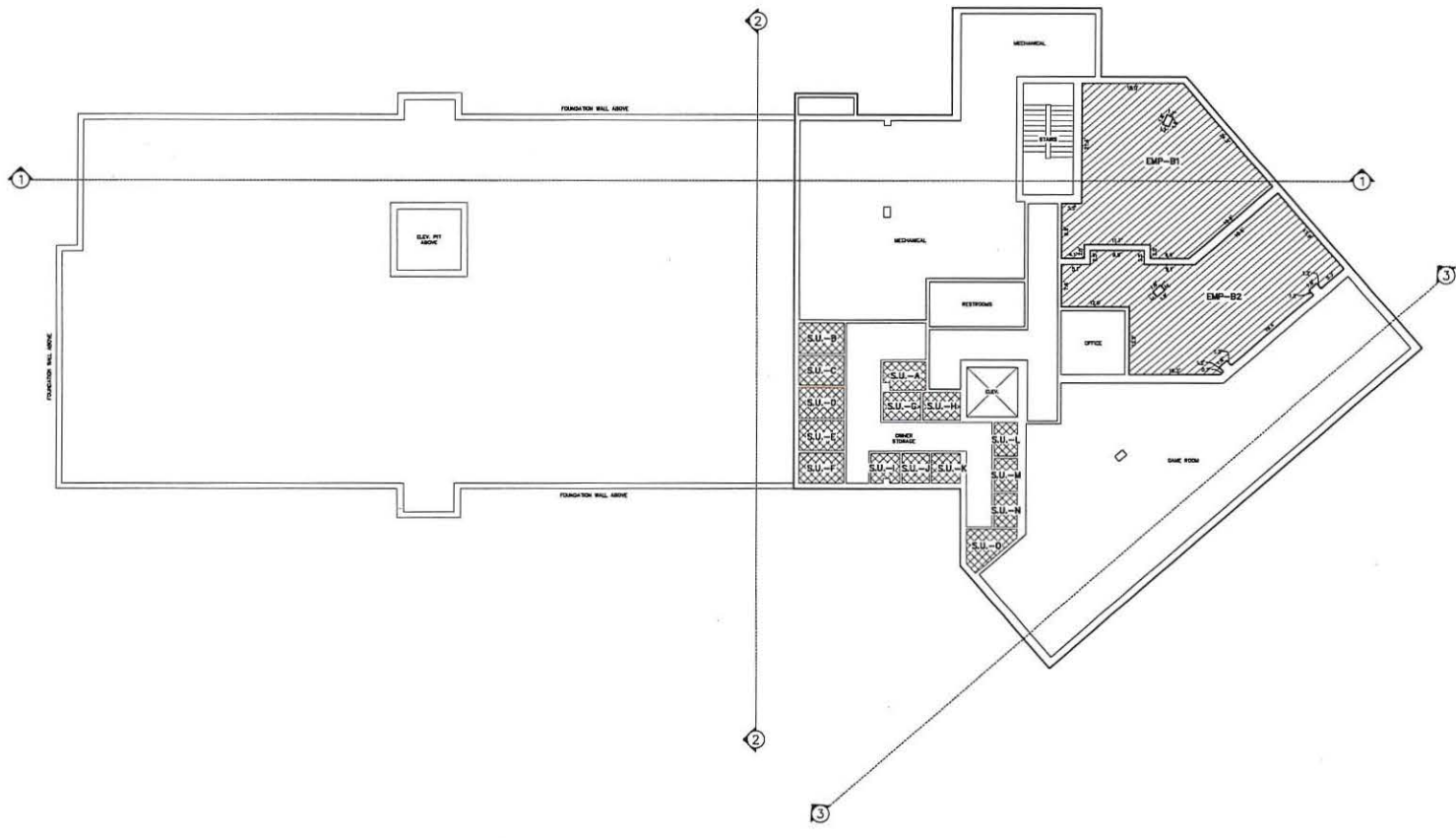
RECORDED
STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____
FEE _____ RECORDER _____
TIME _____ DATE _____ ENTRY NO. _____

**BASEMENT
SQUARE FOOTAGE TABLE**

UNIT NUMBER	SQUARE FOOTAGE
EMP-B1	803 SF
EMP-B2	815 SF

**BASEMENT
STORAGE UNIT OWNERSHIP**

OWNER STORAGE UNIT NUMBER	ROOM UNIT NUMBER
S.U.-A	
S.U.-B	
S.U.-C	
S.U.-D	
S.U.-E	
S.U.-F	
S.U.-G	
S.U.-H	
S.U.-I	
S.U.-J	
S.U.-K	
S.U.-L	
S.U.-M	
S.U.-N	
S.U.-O	



BASEMENT

ABBREVIATION LEGEND

ELEV. = ELEVATOR
S.U. = STORAGE UNIT

OWNERSHIP LEGEND

- COMMON
- LIMITED COMMON
- PRIVATE OWNERSHIP

ARGENT AT EMPIRE PASS CONDOMINIUMS

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



11/20/19 SHEET 2 OF 10
JOB NO.: 6-3-19 FILE: X:\Empire\dwg\er\plot2019\060319-Argent.dwg
RECORDED
STATE OF UTAH, COUNTY OF SUMMIT, AND FILED
AT THE REQUEST OF _____
FEE _____ RECORDER _____
TIME _____ DATE _____ ENTRY NO. _____