



**PARK CITY PLANNING COMMISSION MEETING
SUMMIT COUNTY, UTAH
March 24, 2021**

PUBLIC NOTICE IS HEREBY GIVEN that the PLANNING COMMISSION of Park City, Utah will hold its Regular Planning Commission Meeting at the City Council Chambers, 445 Marsac Avenue, Park City, Utah 84060 for the purposes and at the times as described below on Wednesday, March 24, 2021.

NOTICE OF ELECTRONIC MEETING AND HOW TO COMMENT VIRTUALLY:

This meeting will be an electronic meeting without an anchor location as permitted by Utah Code Open and Public Meetings Act section 52-4-207(4) as amended June 18, 2020, and Park City Resolution 18-2020, adopted March 19, 2020. The written determination of a substantial health and safety risk, required by Utah Code section 52-4-207(4) is attached as Exhibit A. Planning Commission members will connect electronically. Public comments will be accepted virtually as described below.

To comment virtually, raise your hand on Zoom. Written comments submitted before or during the meeting will be entered into the public record, but not read aloud. For more information on participating virtually and to listen live, please go to www.parkcity.org/public-meetings.

Exhibit A: Determination of Substantial Health and Safety Risk

The Board Chair has determined that conducting a meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location. Utah Code section 52-4-207(4) requires this determination and the facts upon which it is based, which include:

- Statewide COVID cases and hospitalizations remain high;
- Based on metrics established by the statewide COVID-9 Transmission Index, Summit County moved to the High Risk designation on October 22, 2020; and
- Park City is a resort community continually hosting visitors from areas which may be experiencing rapid COVID-19 spread.

This determination is valid for 30 days, and is set to expire on March 26, 2021.

Dated: February 24, 2021

MEETING CALLED TO ORDER AT 5:30 PM.

1.ROLL CALL

2.MINUTES APPROVAL

- 2.A. Consideration to Approve the Planning Commission Meeting Minutes from March 10, 2021.

3.PUBLIC COMMUNICATIONS

4.STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

- 4.A. City Council Update
[Staff Communication](#)

5.WORK SESSION

- 5.A. 9300 Marsac Ave (Sommet Blanc/B2East Parcel) – Applicant is Requesting a Work Session Before the Planning Commission Prior to Public Hearings for a Conditional Use Permit and Amendments to the Approved Master Planned Development and Flagstaff Development Agreement for Proposed Development of 43 Residential Units Above Underground Parking, and 5 Condominium Villas on the North-eastern Portion of the Site on the B2East Parcel. PL-20-04702.
 - (A) Work Session
 - [Sommet Blanc Work Session Staff Report](#)
 - [Exhibit A: Applicant Submittal](#)
 - [Exhibit B: 2007 B2 Master Planned Development](#)
 - [Exhibit C: 2007 Amended Flagstaff Development Agreement](#)
 - [Exhibit D: Pod B-2 Subdivision Plat](#)
 - [Exhibit E: B2East Plat Original](#)
 - [Exhibit F: Development Covenant](#)
 - [Exhibit G: 'Working Copy' Plat](#)
 - [Exhibit H: B2 East Sub Ordinance Exhibit](#)
 - [Exhibit I: Landscape Renderings Updated](#)
 - [Exhibit J: Minor Amendment Request / Additional Information 3.18.21](#)
 - [Preliminary Construction Mitigation Plan](#)

6.REGULAR AGENDA

- 6.A. 97 King Road: Nightly Rental Conditional Use Permit – The applicant is requesting approval of a Conditional Use Permit for a Nightly Rental use in the Historic Residential – Low Density (HRL) zone at 97 King Drive for a 4-bedroom, 3-bathroom detached single family home with 2 garage parking spaces. PL-20-04714 Planner Conboy
 - (A) Public Hearing (B) Possible Action
 - [97 King Road Nightly Rental CUP Staff Report](#)
 - [Exhibit A: Applicant Statement](#)
 - [Exhibit B : Floor Plans](#)
 - [Exhibit C: Regulation of Nightly Rentals](#)
- 6.B. 7165 Little Belle Court: Plat Amendment - The applicant is seeking approval of a Plat Amendment in the Residential Development (RD) zone in order to add 150 square feet to the main level as well as a new deck adjacent to the new addition. PL-21-04746 Planner Conboy

(A) Public Hearing (B) Possible Recommendation for City Council's Consideration on April 15, 2021

[Little Belle Court Plat Amendment Staff Report](#)

[Exhibit A: Draft Ordinance](#)

[Exhibit B: Proposed Little Belle Condominiums 7th Amended Plat](#)

[Exhibit C: Aerial Photographs](#)

[Exhibit D: Little Belle Second Amended Plat](#)

[Exhibit E: Little Belle Plat Original](#)

[Exhibit F: Pictures.pdf](#)

[Exhibit G: Intent and HOA Approval](#)

- 6.C. Nightly Rentals in the Fairway Meadows Subdivision - Amendment to the Land Management Code Sec. 15-2.13-2 To Prohibit Nightly Rentals in the Fairway Meadows Subdivision

(A) Public Hearing (B) Possible Recommendation for City Council's Consideration on April 15, 2021

[Fairway Meadows Nightly Rental LMC Amendment Staff Report](#)

[Exhibit A: Draft Ordinance](#)

[Exhibit B: Applicant Submittal](#)

- 6.D. Park City Mountain Resort Base Area Development - Exhibits will be published on Monday, March 22, 2021.

7.ADJOURN

A majority of PLANNING COMMISSION members may meet socially after the meeting. If so, the location will be announced by the PLANNING COMMISSION Chair Person. City business will not be conducted. Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Planning Department at 435-615-5060 or planning@parkcity.org at least 24 hours prior to the meeting. Wireless internet service is available in the Marsac Building on Wednesdays and Thursdays from 4:00 p.m. to 9:00 p.m. Posted: See: www.parkcity.org

***Parking validations will be provided for meeting attendees that park in the China Bridge parking structure.**

Planning Commission Staff Report



Subject: Sommet Blanc/B2 East Conditional Use
Permit and Amendments to Pod B2 Master
Planned Development and Flagstaff
Development Agreement
Application: PL-20-04702, PL-21-04771
Author: Brendan Conboy, Senior Planner
Date: March 24, 2021

**Type of
Item:** Administrative – Work Session

Summary Recommendations

Staff recommends the Planning Commission hold a Work Session and make a determination regarding the proposed amendments as to whether they are Minor or Substantive per Sec. [LMC § 15-6-4\(K\)](#). In addition, staff requests that the Planning Commission provide feedback and direction to staff and the applicant regarding the proposed amendments to the Pod B2 Master Planned Development (MPD) and Flagstaff Development Agreement (Agreement) and determine whether the proposed amendments to volumetrics, design, and unit definitions are consistent with the City's long-range vision for this property. Alternatively, the Commission may advise the applicant that they are not interested in amendments to the existing approved volumetrics, design, or unit definitions.

Description

Applicant: Sommet Blanc Residences I LLC /
Douglas Ogilvy and Hannah Tyler
Location: 9300 Marsac Avenue
Zoning: Master Planned Development (MPD) – Residential
Development (RD)
Adjacent Land Uses: Empire Day Lodge, Montage Deer Valley, Deer Valley Ski
Resort
Reason for Review: Work Session prior to Public Hearings

Executive Summary

The applicant, Sommet Blanc Residences I LLC, represented by Douglas Ogilvy and Hannah Tyler, has requested a work session before the Planning Commission prior to public hearings for accompanying applications.

The site is legally described as Lot 1 of the B2 East Subdivision (Parcel B2East), located at 9300 Marsac Avenue, adjacent to the Deer Valley Empire Day Lodge and the Montage Deer Valley. The site is subject to the requirements of the approved 2007 Empire Pass B-2 Master Planned Development (MPD, Exhibit B) as well as the [2007 Amended Flagstaff Development Agreement](#) (Agreement, Exhibit C).

In November 2020, the applicant submitted materials for a Conditional Use Permit application requesting approval of three condominium lodges with 44 residential units, above underground parking, a 3,600 sf public restaurant, and 6 townhome villas within three duplexes with a detached ancillary ski locker building located on the hillside above

the condominiums.

In conversation with the applicant, staff determined that because the applicant is requesting to amend the approved Agreement and the approved volumetric guidelines of the 2007 MPD, the applicant would need to submit a separate application to amend the MPD.

On February 22, 2020, the applicant submitted a Modification of Approval application for amendments to both the Agreement and the MPD, additional materials for the CUP application, and minor revisions to the overall site plan design. The latest submittal shows three condominium buildings with 43 residential units above underground parking, a 3,600 sf public restaurant, and 5 townhome villas, 2 within a duplex and 3 within a triplex building with a detached ancillary ski locker building.

Upon review of the Land Management Code, staff has determined that the amendment requests are subject to Planning Commission determination as to whether the requests are Minor or Substantive Amendments to an approved Master Planned Development, per [LMC § 15-6-4\(K\)](#). Please see staff analysis below and additional information provided by the applicant advocating for and requesting a determination of Minor rather than Substantive, Exhibit J - Minor Amendment Request.

Background

On June 24, 1999, Council adopted Ordinance 99-30 and Resolution 20-99 approving the annexation and development agreement for the Flagstaff Mountain area. Resolution 20-99 granted the equivalent of a “large-scale” master planned development (MPD) and set forth the types and locations of land use; maximum densities; timing of development; development approval process; as well as development conditions, restrictions, obligations, and amenities for each parcel. The Flagstaff Development Agreement (Agreement) was amended and recorded in March 2007(Exhibit C).

The 2007 Amended Agreement specifies that a total of 87 acres, within three development pods (A, B1 and B2), of the 1,750 acres of annexation property may be developed for the Mountain Village. The Mountain Village is further constrained to a maximum density of 785 Unit Equivalents (UEs) configured in no more than 550 dwelling units as multi-family, hotel, or PUD units, provided the number of PUD units does not exceed 60.

The Mountain Village is also allowed 16 single family home sites. At least 50% of the residential units within the Mountain Village (Pods A, B1, and B2) must be clustered within the primary development pod (Pod A). The three development pods must be linked by transit. A fourth pod, Pod D is allowed 30 single family lots (this area was platted with the Red Cloud Subdivision, for 30 single family home sites).

The Agreement required the applicant to submit [14 specific technical reports](#) for review and approval by the City. The 14 reports, along with the Land Management Code and the amended Development Agreement form the standards under which the subject Conditional Use Permit, and MPD and Agreement modifications are reviewed.

Pod B2 at Empire Pass Master Planned Development

On July 28, 2004, the Planning Commission approved a Master Planned Development

(MPD) for the Village at Empire Pass (Pod A), known as the Village Master Planned Development (VMPD) Pod A. The VMPD was the first step in the development process for Pod A. A separate MPD for Pod B1 was approved in May 2002 and amended in 2008. On March 14, 2007, the Planning Commission approved a Master Planned Development (MPD) for Pod B2 at Empire Pass as an amendment to the July 28, 2004 Village at Empire Pass MPD (VMPD) (See Exhibit B).

The purpose of the VMPD was to establish unit mix and density for the Mountain Village, as well as addressing overall project infrastructure throughout the Annexation Area. The VMPD established building volumetric diagrams, including specific height exceptions, density, and development location. Building volumetric diagrams were approved with the Pod B2 MPD ("Hill Glazier Plans", Exhibit 5 of Applicant Submittal).

The Pod B2 MPD approved 192 hotel rooms utilizing 69.6 Unit Equivalents (UEs) and 94 hotel condominiums utilizing 114 UEs, on the west side parcel (aka Montage Resort). An additional 81 UEs of residential condominiums were assigned to the east side parcel, aka B2 East. The applicant requested a plat note identifying the maximum density allowed on Lot 1 as 81 UEs configured in no more than 70 individual residential condominium units.

The Pod B2 MPD approved Resort Support Commercial uses for 35,000 sf of Spa floor area and 28,059 sf for restaurants, bar, and retail space within the Montage Resort and Spa building (Please see analysis below). The MPD approved 15,000 sf of meeting/conference space and lounge area based on the total floor area of the building, not including the parking garage, for the Montage Resort. The MPD describes findings and conditions for development of Pod B2, and includes language related to the provision of 75 parking spaces for the Empire Day Lodge (See parking analysis below).

Concurrent with the MPD, the Planning Commission approved a Conditional Use Permit (CUP) for Phase I of the MPD for the Montage Resort and Spa. The Montage Resort and Spa is complete and has full occupancy permits for 174 hotel rooms and 84 condominium units were constructed with the Montage as recorded with the Hotel and Residences at Empire Canyon Resort Condominium plat, utilizing a total of 182 UEs.

Subdivisions

On March 29, 2007, the City Council approved the Parcel B-2 Empire Village Subdivision creating three lots of record for Parcel B-2 (West) (Exhibit D). The Parcel B-2 Empire Village Subdivision amended and consolidated parcel A of the previous Empire Village Subdivision for the Empire Day Lodge, created Lot B, site of the Daly West head frame and access to JSSD underground mine tunnels, and created Lot C, site of the Montage Resort and Spa CUP. Parcel B-2 Empire Village Subdivision plat was recorded on May 23, 2007. The Staff report for Parcel B-2 Subdivision indicated that a future subdivision would encompass the 81 UE condominiums to the southeast of the Empire Day Lodge (B2 East Lot).

On March 9, 2017, the City Council approved the B2 East Subdivision creating a lot of record for the 81 multi-family UEs, in not more than 70 individual condominium units, as identified by the Pod B-2 Master Planned Development and Subdivision. The subdivision plat entails a 7.85 acre metes and bounds parcel (Exhibit D). The subdivision consists of a 6.91 acre Lot 1, and a 0.94 acre Parcel A, for anticipated Deer Valley Resort ski related activities and infrastructure (potential ski bridge).

Parcel A has no assigned density and is not developable in terms of residential units or UEs. The applicant recorded a Development Covenant which allocates 3,600 sf of Resort Support Commercial (from MPD maximum of 75,000 sf), and the 81 UEs, to be located within a maximum of 70 multi-family dwelling units (Exhibit F)

Staff notes that the working copy of the B2 East Subdivision plat contains hand-drawn parcels consisting of Parcels B2EAST-1-A, B2EAST-1-B, B2EAST-1-C, and B2EAST-1-D, which have been assigned new Tax ID numbers and are shown on the Summit County Parcel Viewer (Exhibit G). According to the applicant, the project will be phased and for the purposes of financing, the ownership group holds title with different entities for each phase. Following the CUP approval, the applicant intends to record a plat which roughly follows the parcel lines shown on the working copy. These internal boundary lines have **not been reviewed or approved by the City**. Staff is unclear how the hand drawn parcel lines came to be recorded as the working copy of the plat with Summit County. For the sake of this application, staff aims to clarify that the valid plat is the original B2 East Subdivision plat (Exhibit E).

Mine Soil Removal

The Property is the site of the historic Mazeppah mine shaft. In September 2016, the applicant began working under an Administrative Settlement and Order on Consent for Removal Action with the EPA permit to remediate and remove mine soil on the site and to close an old mine shaft on the property. The mine shaft was permanently closed in 2016 under geotechnical supervision. Significant amounts of soil downstream from the mineshaft was contaminated and had to be removed. In August of 2018, the EPA confirmed that all work performed on site was in accordance with EPA requirements. Following cleanup of the site the grade at the center of the development site on the Property was approximately 15-20' below grade of the adjacent *Lucky Jack* ski trail, according to the applicant.

As a result of environmental cleanup and importing clean fill from sites elsewhere within the Flagstaff Annexation area the grade on site is well below the adjacent ski trail in anticipation of underground parking. Please see Exhibit 1 of the applicant's submittal for more detail (Exhibit A – Applicant Submittal).

Underlying Zoning

LMC § [15-2.13-1](#), Residential Development (RD) District notes that the purpose of the RD District is to:

- A. allow a variety of Residential Uses that are Compatible with the City's Development objectives, design standards, and growth capabilities,
- B. encourage the clustering of residential units to preserve natural Open Space, minimize Site disturbance and impacts of Development, and minimize the cost of municipal services,
- C. allow commercial and recreational activities that are in harmony with residential neighborhoods,
- D. minimize impacts of the automobile on architectural design,
- E. promote pedestrian connections within Developments and between adjacent Areas; and
- F. provide opportunities for variation in architectural design and housing types.

General Plan

The proposed development is located within Neighborhood 9: Upper Deer Valley of the General Plan which is characterized by resort oriented development, prioritization of

open space, an emphasis on transportation and improved connectivity, ‘environmentally responsible second-homes’, and a focus on the aesthetics of massing and design of new development.

Applicant Proposal

The applicant’s proposal is detailed in the accompanying Applicant Submittal (Exhibit A). In order for the applicant to obtain approval of the Conditional Use Permit for the proposed volumetrics, and building and site design as proposed, the applicant will first need to obtain Planning Commission approval to amend the MPD and Agreement requirements. Staff has advised the applicant that the two items may run concurrently, but procedurally the amendments will need to be approved prior to the approval of a Conditional Use Permit.

The applicant requests the following approvals, modifications, and amendments:

1. Conditional Use Permit: The applicant is requesting approval of 43 residential units over underground parking in three condominium buildings labeled A, B, and C on the lower portion of the property adjacent to the Ruby Chair and 5 townhome condominium villas on the northeastern portion of the property below Marsac Avenue and Twisted Branch Road. With 48 residential units the project includes less residential units than entitled under the 2007 MPD (70), but the same 81 Unit Equivalents (UEs) of residential density (one Residential UE is equivalent to 2,000 square feet, totaling 162,000 square feet). The proposal also contains a 3,600 sf restaurant utilizing available Resort Support Commercial space (Please see use analysis below). Upon further discussion, the applicant has indicated that there will be no restrictions on Short Term Rental of units by the CC&Rs. The applicant anticipates roughly 50% of the units to be short term rental, roughly 5% used as full time residences, and the remainder as second homes/condominiums.
2. Flagstaff Development Agreement Amendment
*Sec. 2.2.1.3 Maximum Density: The maximum density within the Mountain Village is 785 Unit Equivalents configured in no more than **550** dwelling units. Such density shall be configured as multi-family, hotel, or PUD units, **provided the PUD units do not exceed 60. PUD units consume Unit Equivalents in the same respect as multifamily units.***

To construct the five villas on the upper site in conformance with the Agreement the five units would need to be joined as one long, 5-unit building. The applicant believes that splitting the buildings up into a duplex and a triplex would result in a reduction in the overall mass and bulk of the buildings. This is currently not permissible since the 60 permitted PUD units have already been allocated. The applicant therefore requests to amend the Agreement to state the following,

*Sec. 2.2.1.3 Maximum Density: The maximum density within the Mountain Village is 785 Unit Equivalents configured in to more than **550 547** dwelling units. Such density shall be configured as multi-family, hotel or PUD units, **provided the PUD units do not exceed 60 62. PUD units consume Unit Equivalents in the same respect at multifamily units.***

3. Pod B2 MPD – Amendment to Approved Volumetrics
The applicant is requesting approval of changes to the approved volumetrics for

Development Pod B2. According to the applicant, the proposed volumetrics do not constitute a material change in concept, density, or configuration and the amendment is Minor.

The approved design and volumetrics, referred to by the applicant as the 'Hill-Glazier Plan' (Exhibit 6 of Applicant Submittal) limited the condominiums to 33 feet in height from final grade. The applicant is proposing to set a height limit of 82 feet above a "benchmark grade" location, as was done with the Montage. At the Montage, height was measured from the 'benchmark' location of 114' above the entry lobby. The proposed benchmark locations for the condominium buildings at Sommet Blanc is the grade of the entry level for Building A, and the skier entry/amenity level for Buildings B and C. Such a height determination would result in varying heights from different portions of the building relative to the benchmark. The applicant notes that the Pod A MPD allows the majority of buildings to reach a height of 92 feet above Natural Grade.

4. Amendment to Flagstaff Design Guidelines.

The applicant proposes to amend the current Empire Pass Design Guidelines by creating a new section of design guidelines specific to the property. The applicant asserts that the Flagstaff CC&Rs allow the Design Review Board to modify, adopt, and establish Design Guidelines. The applicant holds the opinion that B2 East is a

"...Distinct neighborhood within Empire Pass well separated from the Empire Pass Village, and with no immediate neighbors other than Empire Day Lodge and Montage Deer Valley. As a distinct neighborhood, B2 East can support a contemporary architectural vernacular that ties together the three condominium lodges and the villas on the Upper Site." (Applicant narrative)

The proposal contrasts with the current design guidelines drafted in 2002 which drew inspiration from Craftsman architectural traditions and the historic mountain lodges of the West (See Exhibit 5 of the Applicant Submittal, "Hill Glazier Plans"). Staff believes that because the design guidelines are codified in **Sec. 2.1.12 of the Agreement**, and in the Technical Reports, those documents will also need to be amended/updated if the Planning Commission is supportive of the design changes requested.

5. Mid Mountain Trail

The Mid Mountain Trail is an iconic mountain bike and hiking trail. The trail crosses the subject Property parallel to Twisted Branch Road and across Parcel A of the B2 East Subdivision Plat. The applicant has worked to temporarily reroute and re-grade the trail as part of mitigation requirements for the Hot Creek sewer line improvements. As noted by the City's Trails & Open Space Manager, a portion of this detour is steeper than ideal for a permanent trail alignment. Upon completion of the sewer line, the Applicants propose to address the deficiencies in the current detour to bring it up to a standard suitable for permanent use.

In addition, the Applicants propose to reroute Mid Mountain Trail between SR-224 and the Upper Tour de Suds bike trail with a new crossing over SR-224 immediately south of the trailhead parking lot. Pedestrian/cyclist safety will be well served by the improved sight lines at the new road crossing and visitor orientation will be improved by starting the trail right at the parking lot with the adjacent

trailhead kiosk.

Analysis

Documents that govern the site include, but are not limited to, the following:

- The 2007 Empire Pass B-2 Master Planned Development (MPD, Exhibit B);
- The [2007 Amended Flagstaff Development Agreement](#) (Agreement, Exhibit C); including the [14 specific technical reports](#);
- The 2017 B2 East Subdivision approval (Ordinance 2017-07, Exhibit H);
- The Land Management Code [LMC § 15-1-10](#) Conditional Use Permit
- The Land Management Code [LMC § 15-6-4\(K\)](#) MPD Modifications; and
- The Land Management Code [LMC § 15-6-5\(F\)](#) Master Planned Development Requirements – Building Height

Topic	How Reviewed	Relevant Code
Unit Density Definitions	2007 Amended Agreement Substantive/Minor Amendment	2007 Amended Agreement 15-6-8
New Site Plan	Minor Amendment to 2007 MPD	15-6-5(G)
Building Height Exceptions	Minor Amendment to 2007 MPD	15-6-5(F) 15-2.13-4
Parking	Potential Minor Amendment to 2007 MPD	15-6-5(E) Exhibit 3 and 4 - Transit and Parking Management Plans and comparison to mitigation in 2007 DA
Traffic and Transportation Mitigation	2007 Amended Agreement No change proposed, however: Evaluation of Transportation requirements and whether they are being met.	Exhibit 3 and 4 - Transit and Parking Management Plans and comparison to mitigation in 2007 DA, 2007 MPD, and Village Empire Pass MPD
Affordable Housing	2007 Amended Agreement No change proposed	Current LMC/ Housing Resolution for

Relevant Sections from governing documents and the LMC:

Land Management Code

[LMC § 15-6-4\(K\)](#) **MPD Modifications** states,

MPD MODIFICATIONS. *The Planning Commission shall determine whether a proposed modification to an approved Master Planned Development is minor or substantive.*

1. **Minor Modification.** *A minor modification to an approved Master Planned Development is a modification that **complies with the Land Management Code and Master Planned Development approval and does not trigger additional Off-Street Parking requirements, does not reduce Open Space, and does not increase traffic by 5% or more as demonstrated by a traffic generation study.** The Planning Director shall review and take Final Action on a minor modification to a Master Planned Development and shall issue an Administrative Permit for an approval. The Administrative Permit approval of minor modifications may be appealed to the Planning Commission.*

2. **Substantive Modifications.** *Substantive modifications to an approved Master Planned Development create additional impacts and require review of the entire Master Planned Development and Development Agreement by the Planning Commission, unless otherwise specified in the Development Agreement. Substantive modifications include but are not limited to a change to a Finding of Fact or Condition of Approval, a change in Use or an increase in Floor Area that triggers additional Off-Street Parking requirements, a change in Use or an increase in Floor Area that generates more than a 5% increase in traffic demonstrated by a traffic generation study, or a reduction in Open Space.*

The applicant has requested changes which run contrary to **Condition of Approval #1** of the 2007 MPD which requires that “**The building plans and volumetrics for the project shall meet substantial compliance with the drawings dated April 24, 2006, and as reviewed by the Planning Commission.**” However, staff acknowledges that the determination for Substantive Modification is not limited to a change of Condition of Approval alone. Rather the request should be judged on the merits of whether the proposal complies with the LMC and MPD approval and does not increase Off-Street Parking Requirements, does not reduce Open Space, and does not increase traffic by more than 5% as generated by a traffic study. Because the proposal is a reduction in the number of units (though not the overall square footage), staff is comfortable with the assumption that traffic will not increase due to proposed changes. The applicant has provided a detailed explanation as to why the proposed amendments should be classified as Minor rather than Substantive (Please see Exhibit J). Staff recommends the Planning Commission make a determination regarding the proposed amendments as to whether they are Minor or Substantive per Sec. [LMC § 15-6-4\(K\)](#).

[LMC § 15-1-10](#) **Conditional Use Permit** states,

D. Standards for Review. *The City shall not issue a Conditional Use permit unless the Planning Commission concludes that:*

1. *the Application complies with all requirements of this LMC;*
2. ***the Use will be Compatible with surrounding Structures in Use, scale, mass and circulation;***
3. *the effects of any differences in Use or scale have been mitigated through careful planning.*

E. Review. *The Planning Department and/or Planning Commission must review each of the following items when considering whether or not the proposed Conditional Use mitigates impacts of and addresses the following items:*

1. *size and location of the Site;*
2. ***traffic considerations including capacity of the existing Streets in the Area;***
3. *utility capacity, including Storm Water run-off;*
4. *emergency vehicle Access;*
5. ***location and amount of off-Street parking;***
6. *internal vehicular and pedestrian circulation system;*
7. *Fencing, Screening, and landscaping to separate the Use from adjoining Uses;*
8. ***Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;***
9. *usable Open Space;*

10. *signs and lighting;*
11. **physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;**
12. *noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;*
13. *control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas;*
14. **expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities;**
15. *within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site; and*
16. **reviewed for consistency with the goals and objectives of the Park City General Plan;** *however such review for consistency shall not alone be binding.*

Staff suggests that the Planning Commission discuss the proposal considering the *Standards for Review* and *Review* criteria listed above.

2007 Empire Pass B-2 MPD Approval

Relevant portions of the MPD Findings of Fact, Conclusion of Law and Conditions of Approval dated March 14, 2007 (Exhibit B) include the following:

- A. The additional 80 UEs for B2-East can be absorbed within the Empire Pass project in **Code compliant 33-foot height buildings**. The maximum Building Height in the RD District is 28 feet (33 feet with a pitched roof).
- B. **Building height increases for specific multi-family/resort-related buildings may be considered** based on site-specific reviews and compliance with the standards set forth in the Master Planned Development section of the Land Management Code ([LMC § 15-6-5\(F\)](#)).
- C. The minimum Setback around the exterior boundary of an MPD shall be twenty-five feet (25') for Parcels greater than one (1) acre in size. According to the applicant, the Planning Commission and staff have consistently maintained that the setback requirement is fulfilled at the annexation boundary and does not need to be met within the defined development pods.
- D. All Master Planned Developments shall contain a minimum of sixty percent (60%) open space.
- E. Parking at B-2 East (east of the Empire Day Lodge and site of 81 condominiums and two employee housing units) would require by Code 165 spaces plus the 75 for the Empire Day Lodge. The 165 would be reduced 25% to **124 spaces**. Each of the residential condominium units will be allowed to have one space assigned to the unit.
- F. **COA #1 states, The building plans and volumetrics for the project shall meet substantial compliance with the drawings dated April 24, 2006, and as reviewed by the Planning Commission.**

2007 Amended Flagstaff Development Agreement

Relevant provisions of the [Agreement](#) approved by the City include the following:

- A. **Sec 1.14 “Residential Accessory Uses” definition**

- B. **Sec. 2.1.2 Detailed Design Guidelines, with strong architectural themes for the entire Flagstaff Mountain Project.**
- C. Sec 2.1.4 Parking Management Plan
- D. Sec. 2.1.5 Detailed Open Space Management Plan
- E. Sec. 1.14 Residential Accessory Uses do not require the use of UEs and are
- F. Sec 2.1.8 Trails Master Plan setting forth trail locations, specifications, phasing and timing of public easements.
- G. Sec 2.1.13 Wildlife Management Plan
- H. Sec 2.1.14 Affordable Housing Plan
- I. **Sec. 2.2.1.3 Maximum Density. The maximum density within the Mountain Village is 785 dwelling units. Such density shall be configured as multi-family, hotel, or PUD units, provided the PUD units do not exceed 60. PUD units consume Unit Equivalents in the same respect as multifamily units.**
- J. Sec 2.2.1.9 Parking. Each Small Scale MPD submittal shall include a parking management plan.
- K. **Sec 2.5 Permanent non-skier parking for the Empire Day Lodge will be considered as part of the POD B-2 Master Plan Development. Such parking shall consist of not more than 75 spaces. These parking spaces are in addition to those otherwise required or allowed under this Agreement and the LMC.**
- L. Sec 2.9.1 Trails. Developer shall construct, maintain and commit to free public use, and improved public trail system as set forth in an approved Trails Master Plan.
- M. Sec 2.10.3.1 Van and Shuttle Service. Developer shall provide for its owners, employees and guests, van and shuttle service within the Mountain Village.
- N. Sec 2.10.3.2 Road and Intersection Improvements
- O. Sec 2.10.5 Employee/Affordable Housing
- P. Sec 3.2 Open Space/Transit Management Fund.
- Q. **Sec 6.1 Amendment of Agreement and Development Plan. This Agreement may be amended from time to time by mutual written consent of the parties.**

The 2017 B2 East Subdivision (Ordinance 2017-07, Exhibit H)

Relevant portions of the Subdivision Plat Findings of Fact, Conclusion of Law and Conditions of Approval include the following:

- A. **COA # 4 states**, The plat will note that conditions of approval of the Village at Empire Pass Master Planned Development and the Pod B-2 Master Planned Development shall continue to apply.
- B. **COA # 22 states**, A Construction Mitigation Plan shall be submitted with the Conditional Use Permit application and in advance of issuing building permits.

Resort Accessory and Resort Support Commercial

The applicant proposes 29,625 square feet of amenity space. Per LMC § [15-6-8\(F\)](#) Residential Accessory Space includes the following:

- Ski/Equipment lockers
- Lobbies
- Registration
- Concierge
- Bell stand/luggage storage
- Maintenance Areas
- Mechanical rooms and shafts
- Laundry facilities and storage
- Employee facilities

- Common pools, saunas and hot tubs, and exercise areas not open to the public
- Telephone Areas
- Guest business centers
- Public restrooms
- Administrative offices
- Hallways and circulation
- Elevators and stairways

Per the applicant's submittal, the following is proposed as Residential Accessory space:

- Skier Lounges
- Ski/Boot Storage
- Fitness Facilities
- Yoga & Massage Rooms
- Swimming Pool and Hot Tubs
- Board Room
- Concierge Desk

Staff believes the proposal is largely consistent regarding the definitions of Residential Accessory space, however staff suggests discussing any potential programming or potential Resort Support Commercial activities that could evolve on site, such as massage services, yoga classes, fitness instructors, etc. (See applicant's additional information in Exhibit J). [LMC Section 15-15](#) defines Resort Support Commercial as,

"Use that is clearly incidental to, and customarily found in connection with, the principal Building or Use, and that is operated and maintained for the benefit and convenience of the Owners, occupants, employees, customers, or visitors to the principal Use or Building."

Affordable Housing

The project will contain 4.4 Affordable Unit Equivalents (AUEs) meeting the housing requirement. The 4.4 AUEs are broken up into three apartment units AUEs built on site are exempt from Residential UEs. Staff notes that the proposed AUEs are quite large and could potentially accommodate additional employees.

Parking

The applicant is proposing a total of 97 spaces on site. Per the 2007 MPD approval, the applicant is required to provide a total of 124 spaces for the development and up to 75 for the Empire Day Lodge for a total of 199 spaces, less 25% per the Flagstaff DA, for a total of 149 spaces. The applicant is proposing a dedicated parking deck for Deer Valley use as valet parking for Empire Day Lodge totaling 60 tandem stalls, 92.5 residential spaces, and 36 tandem valet spaces for the restaurant totaling 128.5 stalls, less 25% per Flagstaff DA, for a total of 97 stalls. Staff is supportive of the reduction in parking but would like to see additional information regarding parking management.

ADA Units

In conversation with staff, the applicant has stated that Sommet Blanc meets the Americans with Disabilities Act definition of a 'Place of Public Accommodations', and they are therefore required to provide the proposed two ADA dwelling units. Since the units are required, they do not count towards the 81 UE limit / 162,000 sf of salable square footage as they will be owned by the HOA and provided for guests who require such

accommodations. Staff agrees that the two units are exempt under LMC Sec. 15-6-8(F), and that they are required and therefore exempt. This has been the case with previous development at Empire Pass. (Please see additional information provided by the applicant in Exhibit J)

Exhibits

Exhibit A - Applicant Submittal

Exhibit B - 2007 Empire Pass B-2 Master Planned Development

Exhibit C - 2007 Amended Flagstaff Development Agreement

Exhibit D - Parcel B-2 Empire Village Subdivision Plat

Exhibit E - B2 East Subdivision Plat

Exhibit F - Development Covenant

Exhibit G - B2 East Subdivision plat 'Working Copy'

Exhibit H - Ordinance 2017-07

Exhibit I - Revised Landscape

Exhibit J – Minor Amendment Request / Additional Information 3/18/21

Empire Pass Pod B2E - Sommet Blanc & Alpine Villas

- ***Flagstaff Development Agreement Minor Amendment Application***
- ***MPD Amendment Application***
- ***CUP Application***

Amended Project Narrative February 08, 2021

1.0 Background

B2 East Lot 1 is the development site immediately south of Deer Valley's Empire Day Lodge and the nearby Montage Deer Valley. It is part of the Flagstaff Annexation Area with development entitlements governed by the 2007 Amended Flagstaff Development Agreement (the "Flagstaff DA"). In anticipation of future phased construction, the property was partitioned in 2019 at the time of acquisition by the current ownership group. Ownership of the four parcels (the "Property") is as follows:

- | | |
|--------------|--------------------------------|
| • B2EAST-1-A | Sommet Blanc Residences I, LLC |
| • B2EAST-1-B | Braunwen Sheye LLC |
| • B2EAST-1-C | Alpine Villas LLC |
| • B2EAST-1-D | Vonspar LLC |

In November 2020, the four owners ("Applicants") jointly applied for a Conditional Use Permit for development of 50 condominiums on the properties. Following discussions with City Staff, the Applicants are now submitting a concurrent application to amend the Pod B2E MPD. The Applicants have also fine-tuned the plans submitted with the November CUP Application. Updated plans are attached with this CUP and MPD Amendment Application.

The Property is bounded to the southwest by Deer Valley Resort's *Ruby Chair* and *Lucky Jack* ski trail. Marsac Avenue abuts the property to the northwest and Twisted Branch Road abuts to the east. B2 East Parcel A (owned by REDUS Park City, LLC) adjoins the Property to the south.

In March 2007, City Council approved the Small Scale MPD for Pod B2 (the "2007 MPD"), concurrent with approval of the CUP for the Montage Resort (B2 West). The 2007 MPD approval allocated a maximum 81 Unit Equivalents (UEs) to B2 East and included approved volumetrics for buildings up to 6.5 stories, establishing a maximum height of 82' above benchmarked grades for B2 East. The site plan included two condo towers plus stacked townhome units adjacent the ski trail at the southern end of the B2 East property.

On March 9, 2017, City Council approved the B2 East Subdivision, which subsequently recorded on March 7, 2018. The B2 East Subdivision created a Parcel A to the south of the Property for possible future ski resort improvements.

The Property is the site of the historic Mazeppah mine shaft that was permanently closed in 2016 under geotechnical supervision. Soil downstream of the mine shaft was contaminated, requiring removal of significant volumes of soil under EPA oversight. In August 2018, the EPA confirmed that all work at the site had been fully performed in accordance with EPA requirements.

Subsequent to environmental clean-up efforts, grade at the center of the lower development site on the Property was approximately 15 – 20’ below grade of the adjacent ski trail.

The approved Construction Mitigation Plan for Empire Pass prohibits developers from exporting clean material. Instead, developers are required to reuse the material elsewhere within the Flagstaff Annexation area. Since 2018, the B2 East site has received material from the Empire Residences site and exported material to the future Hot Creek restaurant site. As a result of environmental clean-up and in anticipation of future construction of underground parking grade on site is now well below the adjacent *Lucky Jack* ski trail. **See Exhibit 1.**

2.0 Proposed B2 East Development - Conditional Use Permit

The project proposed for the Property includes three condominium lodges with 43 residential units over underground parking on the lower portion of the property adjacent *Ruby Chair* and 5 condominium villas on the north-eastern portion of the property below Marsac Avenue and Twisted Branch Road (collectively “the Project”).

With a total of only 48 condominium units, the Project includes less residential units than entitled under the 2007 MPD, but the same 81 Unit Equivalents of residential density (162,000 sf salable space).

A 3,600 sf public restaurant is planned in the condominium lodge adjacent Deer Valley’s Empire Day Lodge and *Ruby Chair* lift queue. The restaurant will utilize Resort Support Commercial (“RSC”) density allocated to the Property by the master developer. The public restaurant was anticipated in the master developer’s allocation of remaining RSC density between the Talisker Tower and the Property.

The Talisker Tower Residences was the most recent project at Empire Pass to included RSC space. As noted in 2-28-19 City Council Staff Report, 4,863 sf of RSC density remains available at Empire Pass subsequent to the construction of the Talisker Tower Residences.

Resort Support Commercial permitted under Flagstaff DA: 75,000 sf

Allocated by CUP of Plat:

Montage Spa	35,000 sf
Montage retail, restaurants	28,059 sf
Grand Lodge	1,275 sf

Talisker Tower	<u>5,803 sf</u>	<u>70,137 sf</u>
Remaining RSC Density		4,863 sf
Proposed RSC Density (Public Restaurant)		3,600 sf

The Flagstaff DA does not limit residential amenity space. Such amenities are classified as Residential Accessory space. The project includes residential amenities as expected in a premier ski-in/ski-out property including:

- Skier Lounges
- Ski/Boot Storage
- Fitness Facilities
- Yoga & Massage Rooms
- Swimming Pool and Hot Tubs
- Board Room
- Concierge Desk

The Applicants are applying for a Conditional Use Permit (“CUP”) for the Project. **Exhibit 1** shows the proposed development plan for the site. The roof lines of the three condominium lodges next to *Lucky Jack* ski trail climb from north to south following the grade of the hillside behind. The building height and size of the two lower condominium lodges are similar to that of the Empire Residences project currently under construction. The upper lodge is a little smaller. **Exhibit 2** provides floor plans and elevations for the condominium lodges. A Condominium Plat will be submitted at a later date.

The 2018 B2 East Plat includes a requirement for 4.2 Affordable Unit Equivalents (AUEs). The Flagstaff DA requires 118.9 AUEs. As noted in Tower Residence City Council Staff Report (2-28-19), all off-mountain housing (94.175 AUEs) was satisfied in 2018 with the transfer of the 100 Marsac parcel to Park City. At that time, of the 24.725 required on-mountain AUEs, 16.675 had been completed. The remaining 8.05 AUEs were assigned on the Village at Empire Pass North and B2 East Plats. With the completion of the Argent project, total AUEs satisfied at Empire Pass will be:

On-Mountain Requirement		24.725 AUEs
• Completed On-Mountain (2019)	16.675 AUEs	
• Empire Residences	1.1	
• Talisker Tower Residences	0.92	
• Argent	<u>2.0</u>	
	<u>4.02</u>	
		<u>20.695</u>
On-Mountain Remaining Requirement		4.03 AUEs

The proposed development includes three (3) Affordable Housing Units:

• Building A	1,099 sf	
• Building B	1,099 sf	
• Building C	<u>1,321 sf</u>	
	3,518 sf	4.4 AUEs

At the request of Deer Valley, the prior owner granted a 20' easement on the Property for widening *Lucky Jack* along with an additional 20' buffer easement for skier safety. In addition, Parcel A was carved off the original B2 East site in anticipation of the possible future construction of a skier overpass across Twisted Branch Road south of the site. With this reduction in developable area adjacent *Lucky Jack* and with the goal of reducing the impact of development immediately adjacent the ski run, the Applicants propose placing 25,000 sf of residential density on the north-eastern portion of the site (the "Upper Site") away from the ski experience.

The proposed development plan includes a cluster of five condominium villas on the Upper Site with vehicle access from an upper driveway off SR 224 following the existing water main. The villas include one duplex building and one triplex building designed as three story residences with attached garages. **Exhibit 3** provides floor plans and elevations for the condominium villas.

An amenity building is located at the southern end of the upper driveway to provide ski and boot storage for villa owners and guests and a small skier lounge adjacent the ski-in/ski-out access to *Lucky Jack* ski trail.

Exhibit 4 is a visual impact study of the proposed development plan as seen from multiple vantage points surrounding the property.

2.1 Project Summary

	<u>Units</u>	<u>Platted Residential</u>	
Lodge A	17	49,000 sf	
Lodge B	17	49,000 sf	
Lodge C	9	39,000 sf	
Villas	<u>5</u>	<u>35,000 sf</u>	
	48	162,000 sf	81 UE
Affordable	3	3,518 sf	4.4 AUEs
ADA	2	1,529 sf	
Restaurant (RSC)		3,600 sf	

Note: Current floor plans show residential square footages slightly higher than above totals. Calculations do not yet include reductions for structural columns/walls, mechanical ducts etc. Prior to Public Hearing, square footages will be tightened up to ensure compliance with 162,000 sf cap.

2.2 Lodge Parking

	<u>Units</u>	<u>Req'd</u>	<u>Stalls</u>
Lodge Residences	43	2/unit	86 stalls
Affordable	3	1.5/unit	4.5
Accessible	2	1.0/unit	2.0
Restaurant	3,600 sf	10/ksf	<u>36</u> (tandem valet) 128.5
Less 25% as per Flagstaff DA			97 Stalls

Short term parking provided adjacent Lobby and at end of lower driveway.

2.3 Empire Day Lodge Parking

The Flagstaff DA (2.5) states that:

*“Permanent non-skier parking for the Empire Day Lodge will be considered as part of the Pod B2 Master Plan Development. Such parking shall consist of **not more than 75 spaces.**”*

Per agreement between Applicants and Deer Valley, the Project will include a dedicated parking deck for Deer Valley use as valet parking for Empire Day Lodge. The Deer Valley parking deck will include 60 tandem parking stalls.

2.4 Villa Parking

Each villa includes a double garage consistent with other similar properties at Empire Pass. Short term parking is provided adjacent the amenity building.

2.5 Curb Cuts - UDOT Approval

The Project includes two curb cuts from SR-224. UDOT has issued a Conditional Access Permit (attached as **Exhibit 7**) for a new curb cut to the Upper Site and confirming approval of improvements to existing curb cut at the Lower Site. The UDOT approval also includes a new pedestrian/bicycle at-grade highway crossing point for Mid Mountain Trail as discussed below.

2.6 Setbacks

Project setbacks have been treated as follows:

- Marsac Ave (front yard) 20'
- Empire Day Lodge (side yard) 12'
- Lucky Jack ski trail (rear yard) 15'
- B2 East Parcel A (side yard) 12'
- Twisted Branch Road (rear yard) 15'
- North Property Line (side yard) 12'

2.7 Easements

Project is encumbered by following easements of note as shown on site plans:

- Deer Valley Ski Trail Widening 20' off Lucky Jack Property Line
- Deer Valley Ski Buffer 40' off Lucky Jack Property Line
- SBWRD Sewer Easement Under Lower Driveway
- PCMC High Pressure Water Easement Under Upper Driveway
- RMP Overhead Power Easement Adjacent North PL

The SBWRD Easements shown on the plat have since been vacated and replaced with a new easement under the Lower Driveway.

The project will require reconstruction of the PCMC waterline to revise alignment and profile as discussed with the Water Department. Once plans are finalized, the waterline easement will be amended as necessary.

Project is benefited by following easements of note:

- Driveway Access Easement REDUS land north and east of property
- Ski-In Access Easement REDUS land south of property
- Ski-Out Access Easement REDUIS land south of property

2.8 Transit

The Property is part of the Empire Pass MOA. Residents and guests have full access to the Empire Express app-based shuttle service which operates on demand service between Empire Pass and other Park City destinations. A Park City Transit stop on the Marsac roundabout is directly opposite the lower driveway entrance.

2.9 Fire Protection

The Project has been reviewed by Park City Fire District for conformance with fire fighting requirements. The upper driveway includes a hammerhead turnaround south of AV-5. The cul-de-sac on the lower driveway serves as a hammerhead meeting PCFD requirements.

3.0 Flagstaff Development Agreement - Minor Amendment

The Flagstaff DA (2.2.1.3) addresses allocation of approved density between product types within the Mountain Village:

2.2.1.3 Maximum Density. *The maximum density within the Mountain Village is 785 Unit Equivalents configured in to more than 550 dwelling units. Such density shall be configured as multi-family, hotel or PUD units, provided the PUD units do not exceed 60. PUD units consume Unit Equivalents in the same respect at multifamily units. Additionally, the Mountain Village may contain up to 16 detached single family home sites.*

To construct the five villas on the Upper Site in conformance with the Flagstaff DA, the five units would need to be joined as one long building. The Applicants believe the appearance of the project would be improved by separating the five villas into two separate buildings, one of which is a duplex. This would result in a reduction in the overall mass and bulk of the buildings.

This is not currently permissible since the 60 permitted PUD units have already been allocated:

• Moonshadow single detached units	8
• Larkspur East Duplex units	6
• Paintbrush single detached units	12
• Belles single detached units	17
• Nakoma single and duplex units	<u>17</u>
	60

To permit construction of the five (5) condominium villas as drawn, the Applicant proposes a minor amendment to the Flagstaff DA, replacing 5 dwelling units configured as **multi-family** with two dwelling units configured as **PUD units**.

2.2.1.3 Maximum Density. *The maximum density within the Mountain Village is 785 Unit Equivalents configured in to more than ~~550~~ 547 dwelling units. Such density shall be configured as multi-family, hotel or PUD units, provided the PUD units do not exceed ~~60~~ 62. PUD units consume Unit Equivalents in the same respect at multifamily units. Additionally, the Mountain Village may contain up to 16 detached single family home sites.*

This proposed change does not impact total density at Empire Pass. It simply replaces 10,000 sf of multi family configured density with 10,000 sf of PUD configured density. Since the proposed villas are 5,000 sf each, the maximum number of dwelling units is reduced from 550 to 547.

4.0 Pod B2 MPD - Amendment to Approved Volumetrics

Just as the original CUP approval for the Montage ran in parallel to the 2007 MPD approval, the Applicants propose to amend the volumetrics included within the 2007 MPD in parallel with the CUP approval for the Project. This application is thus also an application for an amendment to Pod B2 MPD. The proposed volumetrics do not constitute a material change in concept, density, or configuration.

At the time of the prior volumetric approval for Development Pod B2, the main focus was on B2 West, now the site of the Montage Deer Valley. Architectural study of the B2 East site was limited, and the volumetrics approved at that time (**Exhibit 5** - the "Hill Glazier Plan") created a sub-optimal relationship between the buildings, the ski trail and the hillside behind the buildings. The Hill Glazier Plan also included stacked townhome buildings at the southern end of the Property climbing onto what is now B2 East Parcel A. Upon review, it is clear that the Hill Glazier Plan does not meet current fire access requirements for all but the northernmost building. It is also clear that the southernmost buildings do not work with the topography. There are also concerns with the altered existing grade on the project site that has been changed due to the previous mining, construction, and environmental clean-up over the years.

Amending the volumetric to address these concerns outlined above will enable the architect team to contemplate the unique topography and siting which will result in a more thoughtful project and design solutions.

4.1 Proposed Volumetric Guidelines

The Montage Deer Valley was permitted to reach a height of 114' above a benchmark grade set at the hotel entrance. The top ridgeline is 165' above the lower event lawn and 102' above the slope side event lawn. Under the Empire Pass Pod A MPD, the majority of buildings are permitted to reach a height of 92' above Natural Grade. Given the mountainous topography, ridgeline heights relative to Village Way are generally higher. At Empire Pass Village, the four most recent developments project 91 - 110' above the adjacent road and 78 - 88' above the slope side patios. The One Empire Pass Ridgeline is 97' above its pool deck and the Argent Ridgeline is 131' above Marsac Avenue.

	Ridge Height above Road	Ridge Height above Slopeside Patio	Ridge Height Other
Montage	114'	102'	165' above Event Lawn
One Empire Pass	110'	85'	97' above Pool Deck
Talisker Tower Res.	103'	78'	
Empire Residences	95'	88'	
Argent	91'	85'	131' above Marsac Ave

The Applicants propose establishing new Volumetric Guidelines for the Property as described below and demonstrated in **Exhibit 6**.

Based on the dramatic disturbance of the site due to mining and environmental clean up activities, the Applicants propose following the Montage precedent of using benchmark elevations for establishing condominium lodge building heights adjacent *Lucky Jack* ski trail.

Following are proposed maximum building heights for the three condominium lodges:

	Height	Benchmark	Location
Bldg A	82'	8,345'	Entry Lobby
Bldg B	82'	8,362'	Skier Lobby/Amenity Level
Bldg C	82'	8,376'6"	Skier Lobby/Amenity Level

With the proposed volumetrics, maximum building heights relative to roads, driveways and slopeside patios will be as follows:

	Ridge Height above Road	Ridge Height above Slopeside Patio	Ridge Height Other
Building A	86' (Marsac)	80' (Restaurant)	84' (Ruby Chair)
Building B	84' (Driveway)	82' (Apres Deck)	93' (Pool Deck)
Building C	90' (End Driveway)	79' (Lounge Patio)	

Exhibit 6 uses “fog planes” to show conformance of the proposed condominium lodges with the above height limitations.

For the condominium villas on the upper driveway, the Applicant proposes a maximum building height of 49' above Natural Grade. Fog planes and cross sections of the two villa buildings are provided to show conformance with this requirement.

Outside the footprint of the five major buildings, the balance of the site is limited to 28' building height (33' with roof pitches 4:12 or steeper).

The Proposed Volumetric requirement is shown in **Exhibit 6**.

4.2 Rationale for Approval of Amended Volumetrics

The Land Management Code grants the Planning Commission the authority to allow additional building height based upon a site-specific analysis and determination that the following findings can be made:

- 1) *The increase in Building Height does not result in increased square footage or Building volume over what would be allowed under the zone required Building Height and Density, including requirements for façade variation and design, but rather provides desired architectural variation, unless the increased square footage or Building Volume is from the transfer of Development Credits;*

At the Planning Commission meeting of March 27, 2002, the Commission concluded that this requirement of the LMC had been satisfied. This application does not increase square footage or Building Volume over that approved in the 2007 MPD Amendment.

The proposed buildings provide significant variations in facades as demonstrated in the architectural renderings.

- 2) *Buildings have been positioned to minimize visual impacts on adjacent Structures. Potential problems on neighboring Properties caused by shadows, loss of solar Access, and loss of air circulation have been mitigated as determined by the Site Specific analysis and approved by the Planning Commission;*

The front entry of the Montage is over 500' from the property, with the nearest building corner approximately 400' away. At its closest point, Deer Valley's Empire Day Lodge is approximately 70' west of the adjacent B2 condo building. The Empire Lodge will continue to enjoy excellent solar exposure from the south with ample air circulation.

- 3) *There is adequate landscaping and buffering from adjacent Properties and Uses. Increased Setbacks and separations from adjacent properties are being proposed;*

The southwest boundary of B2 East follows Deer Valley's Lucky Jack ski trail. Proposed buildings are set back a minimum of 20' from this property line and 12' from the Empire Day Lodge property line. These setbacks provide adequate buffering and opportunity for landscaping. Landscaping details will be reviewed as part of the CUP approval.

- 4) *The additional Building Height has resulted in more than the minimum open space required and has resulted in the open space being more usable and included Publicly Accessible Open Space;*

The Flagstaff Large Scale MPD approval clustered the majority of the Project density in the Mountain Village, which resulted in open space on the order of 88%. The vast majority of this open space provides passive recreation, trails, ski terrain, wildlife habitat and viewsheds.

- 5) *The additional Building Height shall be designed in a manner that provides a transition in roof elements in compliance with Chapter 5 Architectural Guidelines or the Design Guidelines for Park City's Historic Districts if within the Historic District;*

The proposed buildings shown in the architectural renderings include significant steps and other variations in the roofline.

The proposed amendment to the B2 East volumetrics will result in a project that has improved relationships with the ski trail in the foreground and the hillside beyond. The adjacent and nearby Deer Valley and Montage properties are not materially impacted by the proposed building massing.

5.0 Amendment to Flagstaff Design Guidelines.

As permitted under Section 11.6 of the Flagstaff CCRs below, the Applicants propose amending the current Empire Pass Design Guidelines by creating a new section of design guidelines specific to the Property.

11.6 Design Guidelines and Rules. The Design Review Board shall adopt, establish, and publish from time to time Design Guidelines, which shall be a Governing Document of Empire Pass. The Design Guidelines shall define and describe the design standards for Empire Pass and the various uses therein. The Design Guidelines may be modified or amended from time to time by the Design Review Board. To the extent permitted by the Design Guidelines, the Design Review Board, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements. Compliance with the Empire Pass design review process is not a substitute for compliance with applicable Municipal Authority building, zoning, and subdivision regulations and requirements, and each Owner is responsible for obtaining all applicable Municipal Authority approvals, licenses, and permits as may be required in addition to obtaining final approval of any Improvements from the Design Review Board prior to commencing construction.

It is the opinion of the Applicants and the Declarants (REDUS and Storied Development) that B2 East is a distinct neighborhood within Empire Pass well separated from the Empire Pass Village, and with no immediate neighbors other than the Empire Day Lodge and the Montage Deer Valley. As a distinct neighborhood, B2 East can support a contemporary architectural vernacular that ties together the three condominium lodges and the villas on the Upper Site.

The proposed B2 East Guidelines will be a deviation from the current Guidelines first drafted in 2002 which drew inspiration from Craftsman architectural traditions

and the historic mountain lodges of the West. Rather than encouraging design mimicking historic structures from the early 20th century, the B2 East design guidelines will encourage architecture that celebrate the beauty of the surrounding mountains with generous windows and outdoor living areas. The traditional 4:12 roof pitches will be replaced with flat and very low-pitched roofs better suited to snow retention. Where appropriate, “green roofs” will celebrate native plantings and aid in blending the buildings into the natural landscape during the summer months. Bold cantilevers and dramatic facade shifts will provide articulation and interest. The B2 East Guidelines will recognize the use of contemporary building materials such as exposed structural steel, board formed concrete and glass balcony rails.

In accordance with the Section 11.6 of the Flagstaff CCRs, the Applicant is developing the B2 East Guidelines in conjunction with the Empire Pass Design Review Board to ensure that the Project is developed to a high design standard commensurate with the premier location of the Property.

6.0 Mid Mountain Trail

Mid Mountain Trail, one of Park City’s most iconic mountain bike experiences, traverses the Property, running from north to south through the Upper Site. As part of the mitigation plan for the construction of the Hot Creek sewer line across the Property, the Applicants have constructed a detour for the trail section between SR-224 and the *Payroll* bike trail. As noted by the City’s Trails & Open Space Manager, a portion of this detour is steeper than ideal for a permanent trail alignment. Upon completion of the sewer line, the Applicants propose to address the deficiencies in the current detour to bring it up to a standard suitable for permanent use as one of Park City’s premier trails. In addition, the Applicants propose to reroute *Mid Mountain Trail* between SR-224 and the *Upper Tour de Suds* bike trail with a new crossing over SR-224 immediately south of the trailhead parking lot. Pedestrian/cyclist safety will be well served by the improved sight lines at the new road crossing and visitor orientation will be improved by starting the trail right at the parking lot with adjacent a trailhead kiosk. The proposed trail alignment is shown on **Exhibit 1**.

List of Exhibits:

- Exhibit 1: Site Plan and Aerial Views
- Exhibit 2: Condo Lodge Plans and Elevations
- Exhibit 3: Alpine Villas Plans and Elevations
- Exhibit 4: Visual Impact
- Exhibit 5: Hill Glazier Plans
- Exhibit 6: Height Study and New Volumetrics
- Exhibit 7: UDOT Conditional Access Permit

From: [Douglas Ogilvy](#)
To: [Brendan Conboy](#)
Cc: [Hannah Tyler](#)
Subject: Fwd: B2 East MPD Application
Date: Thursday, March 18, 2021 10:43:43 AM

Brendan,

Thanks for the update on your meeting with Mark and your points of clarification last night. Hannah and I have reviewed and discussed your comments and offer below the Applicant's take on the issues raised yesterday.

1. MINOR vs SUBSTANTIVE AMENDMENT

We are puzzled by your recommendation that Planning Commission find the proposed amendments Substantive. The Applicants have proposed two amendments:

1. Amend the Flagstaff DA (the Large Scale MPD) to replace 5 multi-family units with 2 PUD units.
2. Amend the Pod B2 MPD (the Small Scale MPD) to change the approved Volumetrics for development on the B2 East site.

LMC Section 15-6-4(K) states:

1. Minor Modification. *A minor modification to an approved Master Planned Development is a modification that compiles with the Land Management Code and Master Planned Development approval and **does not trigger additional Off-Street Parking requirements, does not reduce Open Space, and does not increase traffic by 5% or more** as demonstrated by a traffic generation study (emphasis added).*

With respect to both the Large Scale MPD and the Small Scale MPD, the proposed amendments conform to the Minor Modification requirements:

- The reduction of 3 residential units from that permitted under the 2007 DA reduces the Off-Street Parking requirement by $1.5 * 3 = 4.5$ stalls. The Off-Street Parking for B2 East under the 2007 Pod B2 Small Scale MPD is 124 required for residential plus up to 75 for the Empire Day Lodge for a total of 199. The Parking Requirement under the B2 East CUP application is 97 stalls for the Lodges, 60 stalls for the Empire Day Lodge plus 8 stalls for the Villas for a total of 165, a 17% reduction.
- The B2 East site is considered a development site under the 2007 DA (Large Scale MPD) with no acreage from this site included as Open Space in the determination that 88% of lands within the Flagstaff Annexation Area will remain as Open Space. Relocation of density from the lower portion of the site to the upper portion of the site does not reduce Open

Space since no part of B2 East is considered Open Space.

- It is intuitively obvious that the reduction in residential units on B2 East from 81 permitted under the 2007 Small Scale MPD to 70 permitted under 48 proposed under the Sommet Blanc CUP will result in a significant traffic reduction.

LMC Section 15-6-4(K) also states:

2. Substantive Modification. Substantive modifications to an approved Master Planned Development create additional impacts and require review of the entire Master Planned Development and Development Agreement by the Planning Commission, unless otherwise specified in the Development Agreement. Substantive modifications include but are not limited to a change of a Finding of Fact or Condition of Approval, a change in Use, or an increase in Floor Area that triggers additional Off-Street Parking requirements, a change in Use or an increase in Floor Area that generates more than a 5% increase in traffic demonstrated by a traffic generation study, or a reduction in Open Space.

- Since the proposed amendments to the Pod B2 MPD and Flagstaff DA result in a reduction in Off-Street Parking requirements, a reduction in traffic, and no reduction in Open Space, **there are no additional impacts caused by the proposed amendments.**
- While the proposed changes to Volumetrics do change the Findings of Fact and Conditions of Approval under the Small Scale MPD, these changes do not create additional impacts and as such are not Substantive. The approved Volumetrics are so highly prescriptive that **any** change from the original Hill Glazier conceptual design would require a change to the Volumetrics. The public record shows that the Hill Glazier conceptual design received minimal overview during the approval of the Pod B2 MPD while the B2 West (Montage) design received extensive review. Furthermore, it is clear that the Hill Glazier conceptual design fails to satisfy Fire Marshall requirements in multiple ways. Clearly it was not the intent of the parties to lock down the design on the B2 East site based on the minimal review conducted in 2007.
- The Applicant has proposed converting 5 multi-family UEs to 2 PUD UEs under the Flagstaff DA (the Large Scale MPD) to reduce building massing by inserting a break between Villa 3 and Villa 4. Should Planning Commission determine that this minor change is Substantive, the Applicants will amend their application to join all five Villas which negates the benefit of splitting these units into two buildings as proposed. This is the **only** change proposed to the Large Scale MPD, so in no case should the Large Scale MPD (the Flagstaff DA) require review.

The definitions of Minor Amendments and Substantive Amendment are incongruent. It is clear that the proposed amendment meet the requirements of the Minor Amendment.

2. ADA UNITS

As stated in previous emails and acknowledged by you this evening, every project at Empire Pass has included ADA units and none have required UEs. For example:

Residences at the Tower (City Council Approval 2-28-19)

- Finding of Fact 1

*Residences at the Tower condominium plat identifies 14 private market rate multi-family residential units totaling 42,453 sf, utilizing 21.227 UE, **as well as 1 ADA unit** and 1 deed restricted affordable unit.... (emphasis added).*

Argent (Planning Commission Approval 11-13-19)

- Density Summary (Staff Report)

ADA accessible units and deed restricted units do not count towards the UE cap.

Empire Residences (Planning Commission Approval 10-25-17)

Finding of Fact 16

*The total floor area of the residential (market rate) units is 49,000 square feet and utilizes 24.5 UE,
this does not include the affordable unit or the ADA unit.*

You also enquired about legislative requirement for accessible units. We are referencing the Americans with Disabilities Act as noted below:

ADA Part 36 Addressees Accessible Requirements

Definition 36.104 states:

*“Place of public accommodation means a facility operated by a private entity whose operations affect commerce and fall within at least one of the following categories:
(1) An inn, hotel, motel, **or other place of lodging**, except for an establishment located within a building that contains not more than five rooms for rent or hire...*

Section 9 addresses Accessible Transient Lodging

- 9.1.2 states that for properties with 26 to 50 rooms, 2 Accessible Rooms are required. Sommet Blanc includes 48 Residential Units plus 2 ADA units for a total of 50, 2 of which must be accessible.

3. RESIDENTIAL ACCESSORY USES

Prior projects at Empire Pass have included numerous amenities that have been

treated as Residential Accessory Uses. Other than the Talisker Tower (which includes a commercial club operation) and the Montage (which includes a commercial spa and several restaurants (all open to the general public) that are treated as Resort Support Commercial), no prior residential buildings at Empire Pass have had amenity space designated as Resort Support Commercial.

The Flagstaff DA (2007) defines this as follows:

“Residential Accessory Uses” provisionally **means uses that are for the benefit of the residents of a** commercial residential use such as a hotel or **nightly rental condominium project**.

The LMC defines “Accessory Use” as follows”

“Accessory Use”. A land Use that is customarily **incidental and subordinate to the primary use** on the same Lot.

All of the spaces identified as Residential Accessory in the Sommet Blanc application are for the benefit of residents of a nightly rental condominium project. They are also incidental and subordinate to the primary residential/nightly lodging use. All of the Residential Accessory spaces will be Common Area of the HOA and none shall be open to the general public.

The proposed Residential Accessory areas are consistent with those constructed in previous projects at Empire Pass that have been classified as Residential Accessory.

Argent (Planning Commission Approval 11-13-19)

Staff Report - Residential Accessory uses (Guest amenities)

Common residential amenity areas are provided on level one, including ski lockers, a kid’s room, fitness area, lounge/apres ski area. The basement level contains an owners’s storage area and game room. There is also a reading room and deck on the 6th floor. The guest amenity area is approximately 8,433 sf.

Finding of Fact 5 (G)

*Guest amenity areas (arcade/game room, fitness areas, ski lockers, lobby, lounge, apres ski room, kids room and reading room, etc.) are proposed on the basement, first and sixth level. **These common residential accessory uses do not require UEs** (emphasis added).*

Talisker Tower Addition (Planning Commission Approval 12-14-16)

Finding of Fact 27

*The Tower Club Phase I Conditional Use Permit was approved by the Planning Commission on March 11, 2009, for approximately 8,880 square feet. There are approximately 2,264 sf of private dining club, kitchen and small convenience store uses, and **6,616 sf of residential (and resort) accessory uses** (ski lockers, recreation amenities, kids club and programming, etc.) circulation and storage.*

Empire Residences (Planning Commission Approval 10-25-17)

Finding of Fact 16

*The total floor area of the residential (market rate) units is 49,000 square feet and utilizes 24.5 UE, this does not include the affordable unit or the ADA unit. Guest amenity areas (exercise and recreation areas, locker rooms, lobby and reception area, lounge/pub, restrooms etc.) are proposed on the first level **These common residential accessory uses do not require use of UEs.***

The proposed Resort Accessory amenities included within the Sommet Blanc project are very similar to those provided in prior Empire Pass projects:

- Yoga (exercise area not open to the public)
- Fitness (exercise area not open to the public)
- Skier Lounge (common lobby)
- Ski Valet (common ski lockers)
- Concierge (concierge)
- Other Lounge Areas (common lobby)
- Massage Treatment Rooms (common pools, saunas and hot tubs)

None of these are open to the general public, and none are staffed as a commercial operation.

The massage treatment rooms have similarities to the Spa at the Talisker Tower, but several key differences. The Talisker Spa is operated as a commercial enterprise with Talisker Club employing massage therapists and selling massage treatments to its members. Talisker Club and City Staff both agreed that this was a commercial undertaking and the treatment areas at the Talisker Tower are treated as Resort Support Commercial.

The massage treatment rooms at Sommet Blanc are available to owners and guests on a similar basis to a Board Room. An owner or guest can reserve the treatment room, and procure treatment services from an outside provider. Rather than receiving treatment in his or her residential unit, the owner may receive treatment in a more suitable venue. Neither the HOA nor the HOA Manager will be retaining staff to offer massage services on a commercial basis. The general public will have no access to spa treatments in these rooms. The Applicant thus considers this space to be an accessory use for the residences similar to common pools, saunas and hot tubs.

We have used the above basis for determining that the Restaurant open to the general public is the only Resort Support Commercial space within the Sommet Blanc project.

We would be pleased to tee up a call to discuss further.

Doug & Hannah.

Preliminary Construction Mitigation Plan

Empire Pass Pod B2E – Sommet Blanc & Alpine Villas

1. **Hours of Operation:**

Typical hours of construction operations are 7:00am to 6:00pm, Monday through Friday, 8:00am to 6:00pm on Saturday, and no work on Sundays. With this structure being primarily cast in place concrete, occasional longer work hours may be needed for critical concrete placements. Contractor will notify the neighboring residents and Park City Building Department, if wanted, ahead of time of these concrete placement durations.

2. **Parking:**

There is limited onsite parking. This will be reserved for visitors and construction project management personnel. All other construction workers shall park off site and be bused to and from the construction site. The worker parking location is TBD, but could be near the Mine Bench or Richardson Flat. The parking plan assumes there is no on street parking on Marsac Avenue, Twisted Branch Road, or Guardsman Pass Road. Construction equipment, (fork lifts, cranes, backhoes, etc.) is not permitted to be driven or parked on public parking lots, city streets or private property unless otherwise approved.

3. **Deliveries:**

Deliveries to the site will be only during construction operation hours. Typically, deliveries will be just-in-time for the materials to be incorporated into the ongoing construction progress.

4. **Stockpiling and Staging:**

Given the site location, access, and building footprint coverage of the site, there is limited area for stockpiling and staging materials. Materials will have to be delivered to the project just-in-time to incorporate into the construction work. This means and method is similar to building a multistory building in a downtown urban setting. It is the contractor's responsibility to coordinate with subcontractors to minimize problems due to the limited staging and stockpiling areas.

5. **Construction Phasing:**

No construction phasing is planned. Construction is planned to be completed in one continuous time period from Summer 2021 through Summer 2024.

6. **Trash Management & Recycling:**

The construction debris dumpster shall be located within the fenced construction boundary. Its remaining capacity will be monitored daily and the dumpster emptied on a regular basis to prevent over flowing and accumulation of debris around the construction site.

7. **Dust & Mud Control:**

The project site has two distinct access points. The Villas will be constructed from an access point on Marsac Avenue above the property. The Lodges will be constructed from access off the Marsac roundabout. Both project access points will be improved as stabilized gravel construction entries to help eliminate dirt and mud from being tracked onto the paved street. Streets will be monitored daily and cleaned as needed to keep them free of dirt and mud. The majority of excavation work will take place in the summer and fall. This work is not expected to generate much dust, but a water source will be available to keep dust down as needed.

8. **Noise:**

Noisy work shall be kept within the approved project work hours. The developer and contractor will coordinate with Deer Valley to mitigate impact on special events at the Empire Day Lodge.

9. **Grading & Excavation:**

The mass excavation for this project will generate several thousand cubic yards of export. Excavated materials will be dispersed at the tipping sites identified in the 2018 Amendment to the Flagstaff Construction Mitigation Plan. Other than organics, no excavated material will be hauled outside of the Flagstaff Mountain Development boundary. The planned haul route utilizes Marsac Avenue. Flagmen will be used as required at the roundabout on Marsac Avenue to help manage the truck traffic. The haul hours will be limited to between 7:00am and 6:00pm Monday through Friday and 8:00am to 6:00pm on Saturday. All suitable soils to be re-used for backfill will be stockpiled on site or at one of the designated tipping sites.

10. **Temporary Lighting:**

Exterior construction lighting will be kept as minimal as possible. The lighting will be turned off as much as possible during non-work hours. Occasional temporary lighting will be needed for morning concrete placements. This lighting will be accomplished by using portable light plants that are set up only for a specific concrete placement, then moved off site. Temporary interior lighting will be used during construction work hours and turned off to leave a minimal amount of lighting for egress and emergency access.

11. **Construction Sign:**

Project information signs will be posted at the upper and lower entrances to the construction site. Signs will comply with Empire Pass and PCMC requirements. No other construction signs are planned.

12. **Other issues:**

Dogs or pets are not allowed on site. Firearms, alcohol, and drugs are prohibited as well. Visitors must check in at the construction project office and be authorized to be on site with the proper personal protective equipment (hard hat, safety vest, safety glasses, etc.).

13. **Soils Ordinance:**

Under EPA oversight, the property was subject to three years of environmental clean-up including extensive export of contaminated soil. The property received a Notice of Completion from the EPA in August 2018 following removal of contaminated soil down to clean native soil.

14. **Erosion Control:**

The contractor is enlisting the services of Alliance Engineering to help draft and maintain a SWPPP and erosion control program throughout the project duration. This plan will be submitted prior to start of construction. Cut and fill areas and utility trenches will be backfilled and revegetated as soon as practical to help minimize erosion.

