

## City Council Staff Report



PLANNING DEPARTMENT

**Subject:** Moon Shadow Condominiums  
**Author:** Kirsten Whetstone, AICP- Senior Planner  
**Project #:** PL-18-83848  
**Date:** October 23, 2018  
**Type of Item:** Legislative – Condominium Plat

### Summary Recommendations

Staff recommends the City Council hold a public hearing for the Moon Shadow Condominiums plat located at 8945 Marsac Avenue (Lot 1 of the Village at Empire Pass North Subdivision) and consider approving the application based on Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the attached Ordinance.

### Executive Summary/Proposal

The Moon Shadow Condominiums application is a request for a condominium plat for eight (8) PUD style units/lots with access on a private street located off Marsac Avenue (Exhibit A). The units are located on Lot 1 of the Village at Empire Pass North Subdivision subject to the 2007 Amended Flagstaff Development Agreement (Amended Agreement) ([Exhibit E- link](#)) and the Village at Empire Pass Master Planned Development (VEP MPD). PUD style units are described in the Amended Agreement as “clustered, detached, single family or duplex units with common open space and coordinated architecture.”

Lot 1 consists of 6.77 acres. Proposed condominium units (lots) range in area from 0.48 to 0.98 acres. The applicant proposes a total of thirty-one (31) Unit Equivalents (UE) or 62,000 square feet of floor area to be divided among eight (8) condominium units. The condominium plat identifies sufficient private area to accommodate a typical 4,000 sf building pad with remaining lot area designated as common area. No building height exceptions are requested.

An existing conditions survey, utility and grading plans, construction plans for the private street and utilities, a slope analysis, aerial photo and photos of the site and architectural design guidelines were submitted with the application ([See link to all Exhibits](#) p. 68). Conditions of approval regulate construction limits of disturbance, vegetation protection and landscaping. Public trail easements are dedicated within the ROS zoned portion.

Administrative Conditional Use permits (ACUP) are required prior to building permit issuance for PUD style units. Supplemental condominium plat approvals memorializing private, common and limited common area of each unit are required prior to issuance of certificates of occupancy. Each supplemental plat will also provide documentation of the final UEs and unit counts. No commercial density is allocated or approved at this site.

No deed restricted affordable units are required, or proposed for this site as the

remainder of the required on-mountain deed restricted units (8.05 AUE) for the Flagstaff Annexation and Development Agreement have been assigned to a) Lot 1 of the B2 East Subdivision (4.2 AUE), b) Lodge Building 1 (Residences at the Tower) (0.75 AUE), c) Lodge Building 3 (Empire Residences) (1.1 AUE), and d) Lodge Building 4 (2 AUE). Lodge Building 1 is currently under review for a Conditional Use Permit and Condominium Plat and Lodge Building 3 is currently under review for a building permit. No development applications have been submitted for the other two properties.

Front setback exceptions are requested, as permitted by LMC Section 15-2.13.3 (C) (1), in order to cluster the development closer to the private street given the relatively steep downhill slope of the lots (15%-40%) and to reduce the amount of cut and fill, manage excess driveway grades and surface area, protect significant vegetation, and increase separation from areas of 40% and greater slope. No height exceptions to the RD District requirements are proposed.

On September 26, 2018, the Planning Commission reviewed the proposed condominium plat and forwarded a unanimous positive recommendation to City Council. See [link to Planning Commission minutes](#) (p.12).

### **Description**

Applicant:	Storied Deer Valley, LLC
Location:	8945 Marsac Avenue (Lot 1 of the Village at Empire Pass North Subdivision)
Zoning:	Residential Development (RD) and Recreation Open Space (ROS) subject to the Amended Flagstaff Development Agreement and Village at Empire Pass Master Planned Development (VEP MPD)
Adjacent Land Uses:	Open space, development parcels of the VEP MPD Pod A, other RD Zoned property and Ontario Mine Bench properties (PCMC and JSSD)
Reasons for Review:	Plat Amendments require Planning Commission review and City Council review and action.

### **Background**

See the September 26, 2018, [Planning Commission Packet](#) (p. 53) for complete Background. The application was complete on August 2, 2018.

### **Purpose**

See [LMC Section 15-2.13-1](#) for the purpose of the Residential Development (RD) District and see [LMC Section 15- 2.7-1](#) for the purpose of the Recreation Open Space (ROS) District.

### **Analysis**

The property consists of 6.77 acres and the proposed condominium units (lots) range in area from 0.48 to 0.98 acres. The applicant proposes a total of thirty-one (31) Unit Equivalents (UE) and 62,000 square feet of total floor area to be divided among eight (8) condominium units. The plat identifies sufficient private area to accommodate a

typical 4,000 sf building pad with the remaining lot area designated as limited common.

The eight condominium units (lots) have frontage on a private street (a cul-de-sac). This layout is similar to the Belles and Nakoma PUD style detached units where each unit initially encompasses the lot area that is designated as private area. After construction of each unit, a supplemental condominium plat is required to identify private area of the actual built unit, as well as any limited common or common area. All units are located only within the RD Zoned portion of the property. Applicant submitted Architectural Design Guidelines for Moon Shadow Condominiums that reflect a unified architectural character, as well as consistency with the Empire Pass Design Guidelines.

This plat has been reviewed for compliance with the Flagstaff Development Agreement and Technical Reports, as well as the Village at Empire Pass MPD and Village at Empire Pass North Subdivision. [See link to September 26, 2018 Planning Commission Report \(p. 53\)](#) for additional Analysis and Exhibits.

Land Management Code Review

	<b>LMC/MPD</b>	<b>Proposed</b>
Height	28' (+5' for pitched roof)	No height exceptions requested.
Front setback	20' front, 25' to front facing garage (VEPMPD allows setback exceptions to internal lot lines), subject to criteria of the LMC Section 15-2.13.3 (C).	Requesting 15' front, 20' to front facing garage per LMC Section 15-2.13.3 (C) (1). Property line is the back of the street gutter, consistent with all private streets at Empire Pass.
Rear setback	15'	15'
Side setbacks	12'	12'
Parking	Two spaces required per unit	Two spaces provided per unit
Total Floor Area	Development Agreement requires PUD style units to include all floor area, including all basement areas, into the Unit Equivalent (UE) calculations. 600 sf of garages are excluded.	62,000 sf (maximum of 7,750 sf of total floor area per unit) excluding 600 sf of garage area. Up to 31 UE of residential density are permitted.

Village at Empire Pass Master Planned Development (VEP MPD)

The purpose of the VEP MPD was to establish unit mix and density for the Mountain Village, as well as addressing overall project infrastructure throughout the Annexation Area. The VEP MPD established building volumetric diagrams, including specific height exceptions, density, and development location. No height exceptions were approved for

PUD style units. Prior to building permit issuance for any construction, applicants must receive Administrative Conditional Use Permits for all PUD style and townhouse units. There is not a separate development agreement for the VEP MPD. Site specific review is based on consistency and compliance with the Amended Flagstaff Development Agreement and Technical Reports.

The overall MPD development plan included larger denser buildings at the Village core with PUD style units and single family lots at the perimeter. The pattern of development of these proposed PUD style units is similar to the Nakoma PUD units that are located on a cul-de-sac off Marsac Avenue at the perimeter of the development. Lodge Buildings are located around the lifts, runs, and village amenities with attached multi-family units making up the next tier. The outer tier of units are single family lots like Banner Wood, North Side and Red Cloud and PUD style like Nakoma and Belles PUD.

The VEP MPD concept plan identified this property for 19 multi-family attached units (3 and 4 unit townhomes) with two access points to Marsac Avenue. The proposed density (in terms of number of units, traffic, and general activity) is reduced from 19 to 8 units. The proposed density of 62,000 sf (31 UE) is comparable to the 63,650 sf (31.83 UE) that could result from nineteen (19) multi-family units, using the average VEP MPD townhome size of 3,350 sf.

The proposed concept is similar to the Nakoma Condominium PUDs which are predominately second homes located on the perimeter of the development. A skier bridge is not part of this application and only one permanent entrance to Marsac has been approved by UDOT. The proposed project results in one less road intersection with Marsac Avenue and less site grading due to the reduction of roads and driveway areas. The proposed project is consistent with the approved VEP MPD, the Village at Empire Pass North subdivision and the Amended Flagstaff Development Agreement.

### **Good Cause**

Staff finds good cause for this condominium plat as it is consistent with and provides for orderly development of the Village at Empire Pass MPD, is consistent with the overall development pattern envisioned by the Amended Agreement, is a reduction in the MPD concept density (from nineteen attached multi-family units), provides dedication of public trail and utility easements and is in compliance with the Amended Agreement, including the 15 Technical Reports.

### **Process**

Approval of this condominium plat application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC § 15-1-18.

### **Department Review**

This application has been reviewed by Planning, Engineering, Legal, and Executive.

### **Notice**

On September 12, 2018, the property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published on the Utah Public Notice

Website and the Park Record on September 8, 2018, according to requirements of the Land Management Code.

### **Public Input**

No public input has been received by the time of this report.

### **Alternatives**

- The City Council may approve the Moon Shadow Condominiums plat located at 8945 Marsac Avenue as conditioned or amended; or
- The City Council may deny the Moon Shadow Condominiums plat and direct staff to make Findings for this decision; or
- The City Council may continue the discussion on Moon Shadow Condominiums plat to a future date.

### **Significant Impacts**

There are no significant fiscal or environmental impacts from this application that have not been addressed with conditions of approval.

### **Summary Recommendation**

Staff recommends the City Council hold a public hearing for the Moon Shadow Condominiums plat located at 8945 Marsac Avenue (Lot 1 of the Village at Empire Pass North Subdivision) and consider approving the application based on Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the attached Ordinance.

### **Exhibits**

Ordinance

Exhibit A – Proposed Condominium plat

[\(See link to September 26, 2018 Planning Commission Staff Report for all other Exhibits- Exhibits begin on page 68\)](#)

**Ordinance No. 2018-54**

**AN ORDINANCE APPROVING THE MOON SHADOW CONDOMINIUMS PLAT,  
LOCATED ON LOT 1 OF THE VILLAGE AT EMPIRE PASS NORTH SUBDIVISION,  
PARK CITY, UTAH.**

WHEREAS, the owners of the property known as Lot 1 of the Village at Empire Pass North Subdivision, have petitioned the City Council for approval of the Moon Shadow Condominiums plat; and

WHEREAS, the property was properly noticed and posted on September 12, 2018, according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was published on September 8, 2018, according to requirements of the Land Management Code; and

WHEREAS, the Planning Commission held a public hearing on September 26, 2018, to receive input on the Moon Shadow Condominiums plat; and

WHEREAS, the Planning Commission, on September 26, 2018, forwarded a unanimous positive recommendation to the City Council; and,

WHEREAS, the City Council held a public hearing on October 23, 2018, to receive input on the Moon Shadow Condominiums plat; and

WHEREAS, it is in the best interest of Park City, Utah to approve the Moon Shadow Condominiums plat.

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

**SECTION 1. APPROVAL.** The above recitals are hereby incorporated as findings of fact. The Moon Shadows 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. Moon Shadow Condominiums plat for eight (8) units and a private cul-de-sac is located at 8945 Marsac Avenue on the 6.77 acre Lot 1 of the Village at Empire Pass North subdivision.
2. Lot 1 is located in the RD-MPD and ROS-MPD zoning districts.
3. The City Council approved the Flagstaff Mountain Development Agreement/Annexation Resolution 99-30 on June 24, 1999. The Agreement was amended in 2007. The Amended Agreement is the equivalent of a Large-Scale Master Plan and sets forth maximum densities, location of densities, and developer-offered amenities, requirements and obligations.

4. The 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 (UE) 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.
5. On July 28, 2004, the Planning Commission approved a Master Planned Development for the Village at Empire Pass that identified the area of this proposed plat for multi-family condominium units, subject to density limitations of the Amended Flagstaff Development Agreement.
6. On June 15, 2017, the City Council approved the Village at Empire Pass North Subdivision creating four lots of record. Lot 1, the subject lot of this condominium plat, is 6.77 acres in area, and sufficient in size to cluster the proposed eight PUD style units accessing a private cul-de-sac.
7. Only RD zoned portions of the property are designated as private area and no units are allowed to be constructed in the ROS zoned portions.
8. The private cul-de-sac has access to Marsac Avenue (aka SR 224) and the applicant has obtained a conditional access permit and encroachment permit from UDOT for a secondary access for construction of the private street. The private cul-de-sac, to be known as Moon Shadow Court, is designed with the Fire District required total width of thirty feet (30') (roadway plus 24" roll gutters on both sides) as well as the required cul-de-sac diameter of ninety-six (96') feet.
9. No affordable housing units are required as part of this condominium plat. Final on-mountain affordable housing obligations are to be incorporated into the remaining Village at Empire Pass MPD Lodge Buildings 1, 3 and 4, as well as future condominium buildings at B2 East Subdivision (Parcel B2 MPD Phase 2), as noted on the respective subdivision plats.
10. At the time of final construction and re-platting, all floor area including basement area and garage space greater than 600 square feet, will be counted towards the Unit Equivalents as allowed by the Flagstaff Development Agreement.
11. Applicant submitted Architectural Design Guidelines for the Moon Shadow Condominiums that reflect a unified architectural character, as well as consistency with the Empire Pass Design Guidelines.
12. The proposed pattern of development and this condominium plat are consistent with the approved Village at Empire Pass MPD and the Village at Empire Pass North Subdivision in terms of density, unit type, location and layout of units.
13. A total of 60 PUD style units are allowed within Pods A, B1 and B2 subject to the Amended Agreement. Fifty-two (52) PUD style units are currently platted and/or constructed within the Mountain Village in Pods A and B1, not including these units. There are no PUD style units platted in Pod B2.
14. Up to thirty (31) Unit Equivalents (62,000 sf) are proposed to be divided between the eight (8) PUD style units, subject to all requirements of the 2007 Amended Flagstaff Development Agreement.
15. This parcel was identified as 19 multi-family attached units. While the MPD did not call out a specific density, multi-family townhouses have been approved with density ranging from 2,500 to 5,000 sf of floor area (Larkspur Townhouses in Pod A range

from 3,250 sf to 3,450 sf per unit and average 3,350 sf). The 19 multi-family attached units of the concept plan would have resulted in between 47,500 sf to 95,000 sf of residential floor area (or 63,650 sf if each unit was on average 3,350 sf similar to the nearby Larkspur units).

16. The proposed density (in terms of number of units, traffic, and general activity) is reduced from 19 to 8 units. The proposed density in terms of total square feet and UE (up to 62,000 sf (31 UE) is between the 47,500 sf and 95,000 sf that the 19 multi-family attached concept would have resulted in, had the units been between 2,500 sf and 5,000 sf. By comparison, nineteen (19) multi-family units at the 3,350 sf Larkspur average size would have resulted in a total of 63,650 sf (31.83 UE).
17. The proposed project results in one less road intersection with Marsac Avenue, less site grading due to the reduction of road and driveway areas and less than the floor area of the VEP MPD planned townhouse units. The net square footage of the proposed project is less than or consistent with the townhouses planned in the VEP MPD.
18. The PUD concept is similar to the Nakoma Condominium PUDs which are predominately second homes. The skier bridge is not part of this application and only one permanent entrance to Marsac has been approved by UDOT.
19. The proposed 8 unit PUD style plat is consistent with the approved VEP MPD, the Village at Empire Pass North subdivision and the Amended Flagstaff Development Agreement.
20. Two parking spaces are required for each unit.
21. Maximum Building Height in the RD District is 28' (33' allowed with a minimum 4:12 pitched roof).
22. Fifteen foot (15') front setbacks (20' to the front of the garage) are approved to cluster units closer to the private street in order to decrease cut and fill, decrease driveway area, increase the separation from areas of 40% and greater slope, and to protect additional existing vegetation. Building pads are located a minimum of 10' from slopes 40% and greater, with the exception of topographic slope anomalies located on units A and D that are under the minimum threshold measurements of 25' rise and 50' run.
23. The MPD requires Construction Mitigation Plans to be submitted with each ACUP and building permit addressing all requirements of the Amended Agreement and Technical Reports.
24. Additional Recreational Trail Easements are dedicated outside of those identified in the existing Flagstaff Development Agreement. Easements for both existing and proposed trails are dedicated on the plat.

#### Conclusions of Law:

1. There is good cause for this condominium plat.
2. The condominium plat is consistent with the Amended Flagstaff Annexation and Development Agreement, the Village at Empire Pass North Subdivision, the Park City Land Management Code and applicable State laws regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed condominium plat.

4. Approval of the condominium plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the condominium plat for compliance with State law, Land Management Code, 2007 amended Flagstaff Development Agreement, the Village at Empire Pass MPD, and these conditions of approval, prior to recordation of the plat.
2. The applicant will record the condominium plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void unless an extension is requested prior to expiration and is granted by the City Council.
3. City Engineer and SBWRD approval of the final infrastructure and utility plans is a condition precedent to plat recordation.
4. A non-expired UDOT conditional access permit and encroachment permit shall be obtained prior to construction of the private road that accesses from Marsac Avenue (aka SR 224).
5. SBWRD shall be included in the Owner's Dedication.
6. Conditions of approval of the Village at Empire Pass MPD (Pod A) and the Village at Empire Pass North Subdivision plat continue to apply.
7. An administrative Conditional Use Permit for each of the eight dwellings is required prior to issuance of any building permits for the units. ACUPs maybe combined.
8. All administrative Conditional Use Permit applications and approvals are subject to the Amended Development Agreement and Technical Reports as approved or amended.
9. The plat shall note that a declaration of condominium and a supplemental condominium plat for each unit shall be approved and recorded at Summit County prior to issuance of a certificate of occupancy. Supplemental plats may be combined.
10. The plat shall note that a Construction Mitigation Plan, including truck routing, is a submittal requirement for each administrative Conditional Use Permit and building permit.
11. The plat shall note that a final grading and utility plan, including storm water and drainage plans shall be submitted with each administrative Conditional Use Permit application. No building permits shall be issued until all necessary utility easements are recorded.
12. Building designs are subject to review by the Empire Pass Design Review Board.
13. The plat shall note that a landscape plan, including provisions for water-efficient irrigation systems and drought tolerant plantings with limited turf, is a submittal requirement for each administrative CUP application and building permit. An arborist report, identifying trees and the general condition of any trees located outside of the building pad that are proposed to be removed, is required to be submitted with the landscape plans. Final landscape plans, including plans to remove trees outside of the building pad, are subject to review by the Design Review Board prior to building permit issuance.

14. The plat shall note that a fire protection plan is a submittal requirement for each building permit and shall include fire protection in the form of residential sprinklers and landscaping that complies with Urban Wildland Interface requirements of the Park City Building Department at the time of building permit issuance.
15. The plat shall note that fire sprinklers will be required for new construction on the lots per the Chief Building Official at the time of review of building permits.
16. The plat shall note that at the time of final construction and re-platting with supplemental condominium plats, all floor area including basement area and any garage space greater than 600 square feet will be counted towards the Unit Equivalents as allowed by the Flagstaff Development Agreement.
17. The plat shall note that a maximum of 31 Unit Equivalents of residential density may be utilized for the eight units and each unit shall not exceed 7,750 total square feet, including all floor area, including all basement areas and excluding 600 square feet of garage area.
18. The plat shall note that no more than eight residential PUD style units are allowed on this property.
19. The plat shall note that no commercial density is allocated to this property with this plat.
20. The plat shall note that at the time of plat recordation, Moon Shadow Condominiums includes land within the RD Zone and additional lands within the ROS Zone. The ROS zoning line shall be indicated on plans submitted with the administrative conditional use permit applications. All construction of units shall be restricted to the RD zoned portion. Construction disturbances within ROS portions are subject to the Amended Development Agreement and associated Technical Reports.
21. The plat shall note that setback exceptions allow a minimum front setback of 15' with a minimum front setback to a front facing garage of 20'. All other LMC setbacks, setback exceptions and building height requirements of the RD Zone apply.
22. A financial guarantee, in a form and amount acceptable to the City and in conformance with these conditions of approvals, for the value of all required public and private improvements, shall be provided to the City prior to plat recordation. All public and private improvements shall be completed according to City standards prior to release of this guarantee. Ten percent of the guarantee shall be held by the City for the warranty period and until such improvements are accepted by the City.
23. All required easements for trails will be provided prior to plat recordation.
24. A ten foot (10') wide snow storage easement shall be dedicated to the Empire Pass Master Owners Association along the private street frontage of the lots.
25. All existing and required easements, based on review by the City Engineer, Department of Public Utilities and SBWRD will be shown on the plat prior to recordation, including utilities, storm drainage, access (public, utility and emergency), and snow storage.
26. The plat shall note that utility structures such as ground sleeves and transformers and other dry utility boxes must be located on the lots.
27. The plat shall note that this development is part of a common plan development and an MS4 storm water permit is required for all land disturbance activities, prior to building permit issuance.
28. The plat shall note that public safety access and public utility easements are hereby

- dedicated for all public and private streets.
29. The plat shall note that trees, structures and retaining walls shall not be located within SBWRD easements.
  30. A plat note shall state that all Units will require privately owned and operated wastewater ejector pumps for wastewater service.
  31. The plat shall note that the private street shall be owned, operated, maintained and repaired by the Master Association for the use and benefit of the owners of property in Empire Pass at Deer Valley in accordance with the Master Declaration.
  32. The plat shall note that prior to building permit issuance, documentation from UDOT showing a valid, non-expired approval of access to Lot 1 off Marsac Avenue is required. Approval of the location of permanent access shall also be approved by the City Engineer.
  33. Additional Recreational Trail Easements will be dedicated outside of those identified in the existing Flagstaff Development Agreement. Easements for both existing trails and a proposed new trail will be identified on the plat prior to recordation and a plat note shall indicate that once constructed and or re-constructed these public trails will be considered to be within a fifteen foot public trail easement.
  34. Moon Shadow Court (a private street) shall also be dedicated as "Public Utility Access for purposes of operation and maintenance.
  35. There shall be 30' wide public utility easements dedicated as Park City Water Service District easements for the purpose of operating, maintaining, repairing, eventual replacement and upgrade of one or more underground pipelines and appurtenances for conveyance, distribution, and/or transmission of water. The exact location of these easements shall be approved by the City Engineer prior to recordation of the plat.
  36. The Building Pad shall be considered the Limits of Disturbance for each condominium unit. Forest health restoration and landscaping consistent with the Arborist reports and visual analysis, similar to the Red Cloud Subdivision conditions, that allows an additional disturbance area within 20 feet of the building foundation. Driveways and utility installation are exempt. Construction of units, patios, retaining walls and other permanent structures, such as gazebos, hot tubs, fire pits, etc. are not allowed in the ROS zoned area.
  37. The CC&Rs shall provide notice and process for the tracking and collection of the Real Estate Transfer Fee as required and defined by the Flagstaff Mountain Development Agreement, as amended.

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

PASSED AND ADOPTED this 23rd day of October, 2018.

PARK CITY MUNICIPAL CORPORATION

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Andy Beerman, MAYOR

ATTEST:

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Michelle Kellogg, City Recorder

APPROVED AS TO FORM:

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Mark Harrington, City Attorney

**Exhibits**

Exhibit A – Moon Shadow Condominium plat

