

Ordinance 2017-07

AN ORDINANCE APPROVING THE B2 EAST SUBDIVISION, LOCATED WITHIN THE POD B-2 EMPIRE PASS MASTER PLANNED DEVELOPMENT AT 9300 MARSAC AVENUE, PARK CITY, UTAH.

WHEREAS, owners of the property known as Pod B2 East, located at 9300 Marsac Avenue in Park City, Utah, have petitioned the City Council for approval of a final subdivision plat; and

WHEREAS, legal notice of the public hearing was published in the Park Record and on the Utah Public Notice website on November 26th and December 28th, 2016, and January 21, 2017, and the property was posted on November 30, 2016, according to the requirements of the Land Management Code; and

WHEREAS, courtesy notice was sent to surrounding property owners on November 30, 2016, according to requirements of the Land Management Code; and

WHEREAS, the Planning Commission held public hearings on December 14, 2016, and January 11th and February 8th, 2017, to receive input on the subdivision plat; and

WHEREAS, the Planning Commission, on February 8, 2017, forwarded a positive recommendation to the City Council; and,

WHEREAS, on March 9, 2017, City Council held a public hearing on the subdivision plat; and

WHEREAS, it is in the best interest of Park City, Utah, to approve the B2 East Subdivision 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 subdivision plat as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact

1. The property is located at 9300 Marsac Avenue.
2. The zoning is Residential Development (RD) within Flagstaff Mountain Resort Annexation and the Village at Empire Pass B2 MPD (RD-MPD).
3. On June 24, 1999, Council adopted Ordinance 99-30 and Resolution 20-99 approving the annexation and development agreement for the Flagstaff Mountain area.
4. 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 and amenities for each parcel.

5. The Flagstaff Development Agreement was subsequently amended and recorded in March of 2007.
6. The Development 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.
7. The Mountain Village is further constrained to a maximum density of 785 UE configured in no more than 550 dwelling units as multi-family, hotel, or PUD units, provided the number of PUD units do not exceed 60. The Mountain Village is allowed 16 single family home sites. At least 50% of the residential units within the Mountain Village must be clustered within the primary development pod (Pod A).
8. There are currently 588.742 UE (382 multi-family units) platted within the Village at Empire Pass (Pods A, B1 and B2).
9. With approval of 81 UE (and up to a total of 70 multi-family condominium units) on Lot 1 of the B2 East Subdivision, there will be 669.742 UE platted, 452 (or fewer) units platted, and 57% of the units of Pods A, B1 and B2 will be located within Pod A. The numbers for UE and units do not include the UE and units proposed on the Village North Subdivision under concurrent review. There would then be 88.258 UE and 98 units available for the Village North subdivision, as well as for the un-built Tower Residential (Building One of the Village at Empire Pass MPD).
10. On March 14, 2007, the Planning Commission approved a Master Planned Development for Pod B2 at Empire Pass. The MPD approved 192 hotel rooms utilizing 69.6 Unit Equivalents (UE) and 94 hotel condominiums utilizing 114 UE, on the west side parcel (Montage Resort and Spa). An additional 81 UE of residential condominiums were assigned to the B2 East parcel.
11. The Pod B2 MPD approved Resort Support Commercial uses for the 35,000 sf of Spa space and 28,059 sf for restaurants, bar, and retail space. The MPD approved 15,000 sf of meeting/conference space and lounge area based on the floor area of the building, not including the parking garage. The Pod B2 MPD describes findings and conditions for development of Pod B2, and includes language related to the location of allowed parking for the Empire Day Lodge.
12. The Development Agreement allows a total maximum of 75,000 sf of MPD Resort Support Commercial floor area within Pods A, B1 and B2.
13. The Tower Club CUP in Pod A includes 2,264 sf of private dining room, kitchen and store and was approved for an amendment to the CUP for a dining room addition of 1,115 sf. The Tower Club CUP is approved for 3,379 sf of MPD Resort Support Commercial.
14. The Grand Lodge Condominium plat approved a total of 1,275 sf of MPD Resort Support Commercial.
15. There exists a total of 7,287 sf of unallocated Resort Support Commercial that can be allocated within the Village MPD to Pods A, B1, and B2. With approval of the proposed application, 3,600 sf of Resort Support Commercial will be allocated to Lot 1, leaving a balance of 3,687 sf unallocated Resort Support Commercial available under the Flagstaff Development Agreement.
16. Accounting of the support commercial, residential accessory space, and support meeting space is finalized at the time of review of the Conditional Use Permit and

memorialized in the final condominium plat(s).

17. 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). The Parcel B-2 Empire Village Subdivision amended and consolidated parcel A of the prior Empire Village Subdivision for the Empire Day Lodge and created Lot B, site of the Daly West head frame and access to JSSD underground mine tunnels, and Lot C, site of the Montage Resort and Spa CUP.
18. Subject property is a metes and bounds parcel and is not part of the Parcel B-2 Empire Village Subdivision plat.
19. The staff report for the Parcel B-2 Empire Village Subdivision indicates that the Parcel B-2 East would have to be platted to create a legal lot for development of 81 UE of residential condominiums.
20. Parcel B-2 Empire Village Subdivision plat was recorded on May 23, 2007.
21. The proposed B2 East Subdivision plat creates one lot and one parcel for the B-2 East parcel. Lot 1 is 6.91 acres in area and Parcel A is 0.94 acres in area. Total property consists of 7.85 acres.
22. Lot 1 has frontage on Marsac Avenue, a State Highway and utilities are available to the lot. A Line Extension Agreement approval letter was issued by SBWRD on January 24, 2017.
23. All existing and required easements will be recorded on the plat, including utilities, storm drainage, access, snow storage, etc. No changes are proposed to existing streets.
24. Final utility plans are required to be submitted with the Conditional Use Permit based on the proposed configuration of units and buildings. Additional off-site utility easements maybe required and will have to be recorded prior to issuance of building permits.
25. There is an existing curb cut off Marsac Avenue. Any relocation of this curb cut for future buildings requires review and approval by the City Engineer and UDOT.
26. There is no minimum or maximum lot size or lot width in the RD District.
27. All applicable requirements of Land Management Code apply, unless otherwise allowed per the Flagstaff Development Agreement and Pod B2 at Empire Pass MPD.
28. A height exception and building volumetric were approved with the Pod B2 at Empire Pass MPD.
29. The final Mylar plat is required to be approved and signed by the Snyderville Basin Water Reclamation District prior to recordation to ensure that requirements of the District are addressed.
30. Snow storage area is required along public streets and rights-of-way due to the possibility of large amounts of snowfall in this location.
31. 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 from the property and to close an old mine shaft/adit on the property. After the mine shaft closure was completed, this work was halted in November 2016 on account of the weather. Some contaminated soil remains on site in the area of the former and remaining parking lot. The adit (a gently sloping shallow tunnel) discovered during the mine shaft closure has been temporarily closed but will require further work at time of building construction.

32. On site affordable housing requirements are required by the Flagstaff Development-Affordable Housing Technical Report. This plat identifies an on-site housing obligation of 4.2 AUE (per requirements of the Affordable Housing Mitigation Plan) to be incorporated into the building (s) and noted on the plat.
33. Requirements of the Flagstaff Development Agreement will be reviewed and verified for compliance during the Conditional Use Permit application review for development of Lot 1. This includes transportation, affordable housing, environmental, transfer fees, construction mitigation, and others as may apply. Some of these obligations are triggered by the number of certificates of occupancy issued.
34. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law

1. There is good cause for this subdivision plat.
2. The subdivision plat is consistent with the Park City Land Management Code and applicable State law regarding subdivisions, the Park City General Plan, and the Empire Pass Pod B-2 Master Planned Development.
3. Neither the public nor any person will be materially injured by the proposed subdivision.
4. Approval of the subdivision, 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 subdivision plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at Summit County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void unless a written request for an extension is submitted to the City prior to the expiration date and the City Council grants an extension.
3. All applicable conditions, regulations, requirements, and stipulations of the Amended and Restated Development Agreement for Flagstaff Mountain, Bonanza Flats, Richardson Flats, The 20-Acre Quinn's Junction Parcel, and Iron Mountain (recorded at Summit County on March 2, 2007), and associated Technical Reports and Agreements, continue to apply.
4. 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.
5. Utility structures such as ground sleeves and transformers and other dry utility boxes must be located on the lots.
6. Non-exclusive public utility easements (PUE) shall be indicated on the plat prior to recordation as approved by the City Engineer and SBWRD, including drainage easements.
7. A financial security to guarantee for the installation of any required public improvements is required prior to plat recordation in a form approved by the City Attorney and in an amount approved by the City Engineer.

8. A ten foot (10') wide public snow storage easement is required along the public street frontage of the Lot and Parcel.
9. Fire sprinklers are required for new construction per the Chief Building Official at the time of review of the building permit. A note stating this shall be on the plat.
10. No building permits shall be issued on Lot 1 or Parcel A until the mine shaft has been fully closed and mine soil remediation under EPA supervision has been completed. Prior to issuance of any building permits, documentation certifying the work is complete shall be presented to the Chief Building Official and Planning Director. As part of any building permit submission, property owner shall submit a closure plan for the adit, approved by a geotechnical engineer, and detailing any additional work required in conjunction with building construction in the vicinity of the adit.
11. Prior to building permit issuance, documentation from UDOT showing approval of any curb cuts onto Marsac Avenue, a state highway, is required. If documentation of the existing curb cut does not exist, a new application shall be submitted to UDOT for approval of the curb cut location. This approval shall be submitted to the City Engineer.
12. Any modifications to existing curb cuts for access to Marsac Avenue, a state highway, must be approved by the City Engineer and UDOT.
13. A Conditional Use Permit approval is required prior to issuance of a building permit for the residential building proposed on Lot 1.
14. A final grading and utility plan, including storm water and drainage plans, shall be submitted with the Conditional Use Permit for development on Lot 1, for approval by the City Engineer and SBWRD. No building permits shall be issued until all necessary utility easements are recorded.
15. A declaration of condominium and a record of condominium plat are required prior to the sale of individual units within the development.
16. Requirements of the affordable housing mitigation plan shall be addressed with the Conditional Use Permit and condominium plat. A note shall be included on the plat indicated that the development of Lot 1 has an on-site affordable housing obligation of 4.2 AUE, to be consistent with all requirements of the Flagstaff Affordable Housing Mitigation Plan. All deed restricted units shall be identified on the final condominium plat prior to recordation of such plat. Phasing of affordable housing units shall be commensurate with the Certificates of Occupancy for the buildings.
17. Wastewater service to B2 East Subdivision shall be provided by the Snyderville Basin Water Reclamation District. A Line Extension Agreement approval letter was provided by SBWRD on January 24, 2017. The Owner shall be responsible for extending the public wastewater system within Lot 1 according to requirements of the Line Extension Agreement. Easements associated with this agreement are to be depicted on the plat.
18. The property is located within a water source protection zone. All sewer construction must comply with State of Utah drinking water regulations.
19. This development is part of a common plan development and a MS4 storm water permit is required for all land disturbance activities for each separate phase of construction, prior to building permit issuance.
20. 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.

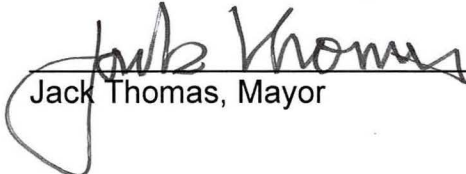
21. Requirements and obligations of the Flagstaff Mountain Development Agreement, as amended and recorded at Summit County in March of 2007, as apply to this Property, shall be completed, or bonded for completion, prior to issuance of certificates of occupancy for any approved development located on Lot 1, unless otherwise conditioned herein (e.g. soil and mine remediation to be complete prior to building permit issuance). This includes gondola payments, number of shuttles in operation, provision of affordable housing units, collection mechanism for real estate transfer fees, and all other such obligations as are outlined in the March 2007 Agreement, some of which are triggered by the number of certificates of occupancy issued.
22. A Construction Mitigation Plan shall be submitted with the Conditional Use Permit application and in advance of issuing building permits.

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

PASSED AND ADOPTED this 9th day of March, 2017.

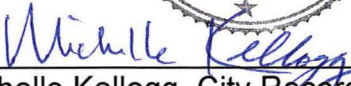


PARK CITY MUNICIPAL CORPORATION



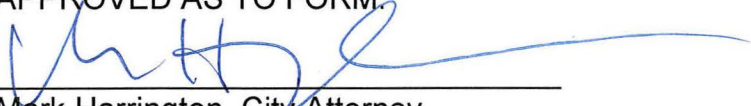
Jack Thomas, Mayor

ATTEST:



Michelle Kellogg, City Recorder

APPROVED AS TO FORM:



Mark Harrington, City Attorney

Exhibits

Exhibit A – Proposed subdivision plat

EXHIBIT A



SURVEYOR'S CERTIFICATE

I, Martin A. Morrison, certify that I am a Registered Land Surveyor and that I hold Certificate No. 4938736, as prescribed by the laws of the State of Utah, and that by authority of the Board of Survey Maps of B2 EAST SUBDIVISION has been prepared under my direction and that the same has been filed and will be monumented on the ground as shown on this plat. I further certify that the information on this plat is accurate.

BOUNDARY DESCRIPTIONS

A parcel of land located in the west half of Section 28 and the southeast quarter of Section 28, Township 2 South, Range 4 East, Salt Lake Base and Meridian.

Beginning at a point that is North 00°30'49" West 2213.49 feet along Section Line and East 58.55 feet from the southwest corner of Section 28, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said point also being on the southerly line of the Morsac Avenue Right of Way, according to the official plat thereof on file and of record in the office of the Recorder, Summit County, Utah, and on a curve to the left having a radius of 80.00 feet, of which the radius point bears North 34°38'59" East; and running thence along the southerly line of the Morsac Avenue Right of Way the following five (5) courses: 1) easterly along the arc of said curve 147.00 feet through a central angle of 103°18'54" to a point on a reverse curve to the right having a radius of 15.00 feet, of which the radius point bears South 70°37'45" East; thence 2) northeasterly along the arc of said curve 16.15 feet through a central angle of 51°42'16" to a point on a curve to the left having a radius of 100.00 feet, of which the radius point bears North 05°55'27" West; thence 3) northeasterly along the arc of said curve 112.21 feet (chord bears North 45°55'52" East 108.41 feet) through a central angle of 64°17'22"; thence 4) North 16°27'11" East 58.03 feet to a point on a curve to the right having a radius of 825.00 feet, of which the radius point bears South 73°12'49" East; thence 5) northeasterly along the arc of said curve 355.31 feet through a central angle of 38°40'34" to a point on a curve to the left having a radius of 525.00 feet; thence southerly along the arc of said curve 44.31 feet (chord bears South 04°37'35" West 44.30 feet) through a central angle of 43°10'10"; thence South 02°12'30" East 119.72 feet to a point on a curve to the right having a radius of 30.00 feet, of which the radius point bears North 87°47'30" West; thence southerly along the arc of said curve 35.43 feet through a central angle of 67°28'36" to a point on a reverse curve to the left having a radius of 85.00 feet, of which the radius point bears South 20°17'50" East; thence southeasterly along the arc of said curve 139.33 feet through a central angle of 93°54'58" to a point on a curve to the right having a radius of 596.00 feet, of which the radius point bears South 65°57'11" West; thence along the arc of said curve 229.98 feet through a central angle of 22°06'32" to a point on a compound curve to the right having a radius of 480.00 feet, of which the radius point bears South 60°13'42" West; thence southerly along the arc of said curve 4.79 feet through a central angle of 00°20'46"; thence South 38°44'42" West 144.31 feet; thence North 47°13'14" West 486.28 feet; thence North 61°32'56" West 311.67 feet; thence North 35°40'02" West 47.30 feet; thence North 34°38'59" East 143.28 feet to the point of beginning.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that REDUS Park City LLC, the undersigned owner of the herein described tract of land, to be known hereafter as B2 EAST SUBDIVISION, does hereby certify that it has caused this Plat to be prepared, and does hereby consent to the recording of this Plat.

In witness whereof, the undersigned set his hand this _____ day of _____, 2016.

REDUS Park City LLC, a Delaware limited liability company

By: REDUS Properties, Inc., a Delaware corporation
Its manager

Name: _____
Title: _____

ACKNOWLEDGMENT

State of _____
County of _____

On this _____ day of _____, 2016, _____ personally appeared before me, the

undersigned Notary Public, in and for said state and county. Having been duly sworn, _____ acknowledged to me that he is an authorized signatory of the herein described tract of land, and that he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

A Notary Public commissioned in _____

Printed Name _____

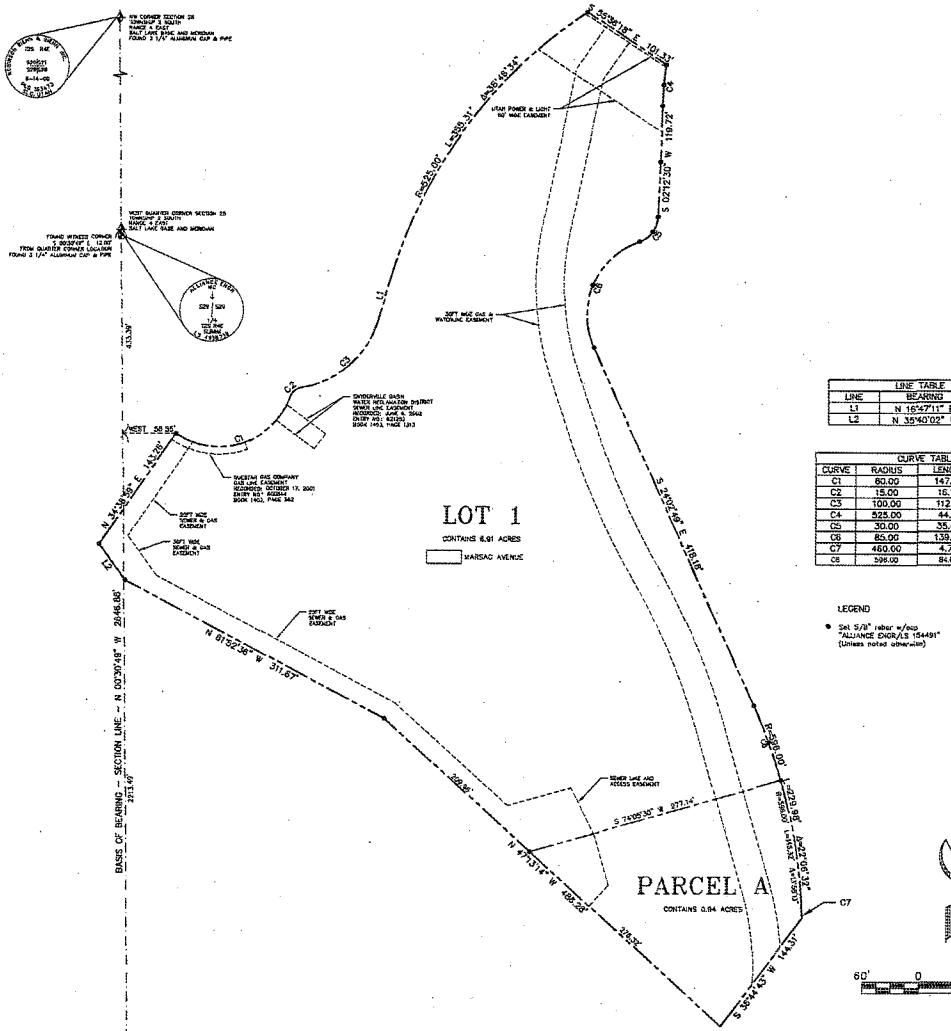
Residing in _____

My commission expires: _____

NOTES:

- This plat is subject to the Conditions of Approval in Ordinance 2016-_____.
- Wastewater service to B2 East Subdivision shall be provided by the Snyderville Basin Water Reclamation District ("District"). A Line Extension Agreement with the District may be required for Lot 1. If necessary, it shall be the responsibility of the Owner to extend the public wastewater system with Lot 1 according to the requirements of the Line Extension Agreement.
- Conditional use permit approval will be required prior to construction on Lot 1.
- A dedication of condominium and a recorded condominium map will be required for the purpose of the sale of individual units within the single development lot shown hereon.
- The lot and parcel described on this plat are subject to the Restated Development Agreement for Flagstaff Mountain, Bonanza Flats, Richardson Flats, The 20-Acre Gulch's Sanction Forces and Iron Mountain dated as of March 2, 2007, and recorded on March 2, 2007 as Entry No. 00801010 in Book 1850, Page 1897 (the "Development Agreement"). By separate Declaration of Development Covenants recorded _____ as Entry No. _____ in the official records of the Summit County Recorder, Lot 1 has been allocated the right to develop 81 Unit Equivalents within 70 multifamily dwelling units and the obligation to locate 4.2 Affordable Unit Equivalents thereon, as each of those specialized terms is defined in the Development Agreement. Dedication of Development allocates a maximum of 3,000 square feet (3.6 commercial Unit Equivalents) for Resort Support Commercial within Lot 1. The foregoing confirmation of the allocation of commercial Unit Equivalents does not reduce the 0% affordable support commercial allowed by existing covenants, which number shall be determined and added to the entitlement for Lot 1 at such time as the owner of Lot 1 obtains a conditional use permit approval. No Unit Equivalents will be allocated to Parcel A or Parcel B to be used in connection with resort and similar activities.
- Owners and potential buyers of any parcel, unit or lot within the lot or parcel depicted on this plat are given notice that they own or are buying property in a resort area in which off-season resort activities are conducted and where certain risks are present, including, without limitation, damage to property and improvements and personal injury and death caused by ground slurs, snow/ice, mountain bikers and other resort patrons, equipment, machine-moored snow, heavy equipment, construction or improvements of facilities, objects or equipment falling from hills, water runoff, droplogs, heavy snow falls, wind patterns, and other conditions that may affect the properties depicted hereon. The adjacent ski resort and its facilities are not controlled by any master association but are owned by a private resort and its facilities are governed by such owner or agreement with such owner.
- The Empire Pass Master Owners Association, Inc. (the "Master Association") together with the Master Declaration of Covenants, Conditions, and Restrictions of Empire Pass, as amended (the "Master Declaration"), requires the membership of each lot or unit owner. Members are subject to the terms of its articles of incorporation, bylaws, rules and regulations and other governing documents that may be established from time to time by the Master Association, including assessments and reinvestment fees as provided therein.
- Utility Easement dedication - await comments from PCMC regarding Waterline.
- The property is located within a water source protection zone. All sewer construction must comply with the State of Utah drinking water regulations.
- A 10' snow storage easement is hereby dedicated to the Master Association along the frontage of the single development lot depicted hereon.
- Fire sprinklers will be required within all dwellings constructed on the single development lot depicted hereon.

SHEET 1 OF 1



LINE	BEARING	DISTANCE
L1	N 16°27'11" E	58.03
L2	N 35°40'02" W	47.30

CURVE	RADIUS	LENGTH	DELTA
C1	80.00	147.00	103°18'54"
C2	15.00	16.15	51°42'16"
C3	100.00	112.21	64°17'22"
C4	825.00	44.31	43°10'10"
C5	30.00	35.43	67°28'36"
C6	85.00	139.33	93°54'58"
C7	480.00	4.79	0°20'46"
C8	596.00	84.66	89°21'

LEGEND
 * 3/16" (1:625) scale of 1/4" = 100' (Unless noted otherwise)

B2 EAST SUBDIVISION

LOCATED IN THE WEST HALF OF SECTION 28 & THE SOUTHEAST QUARTER OF SECTION 29
 TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
 PARK CITY, SUMMIT COUNTY, UTAH

<p>SNYDERVILLE BASIN WATER RECLAMATION DISTRICT REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2017 BY _____ S.B.W.R.D.</p>	PLANNING COMMISSION APPROVED BY THE PARK CITY PLANNING COMMISSION THIS _____ DAY OF _____, 2016 BY _____ CHAIR	ENGINEER'S CERTIFICATE I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2017 BY _____ PARK CITY ENGINEER	APPROVAL AS TO FORM APPROVED AS TO FORM THIS _____ DAY OF _____, 2017 BY _____ PARK CITY ATTORNEY	COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2017 BY _____ MAYOR	CERTIFICATE OF ATTEST I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2017 BY _____ PARK CITY RECORDER	RECORDED STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ ENTRY NO. _____ FEE _____ RECORDER _____
	14301 549-3947 CONSULTING ENGINEERS AND PLANNERS SURVEYORS 223 West Street, P.O. Box 1888, Park City, Utah 84060-1888					