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**STAFF REPORT**

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**TO:** Chair & Planning Commission Members

**FROM:** Chad Weaver, Community Development Director  
Paul Michaud, Planning Manager  
Brandon McMahon, Planner

**DATE:** April 2, 2024

**DEPARTMENT:** Community Development Department – Planning Division  
Brandon McMahon, 480-348-3531

**AGENDA TITLE:** Discussion and Possible Action on a Minor Special Use Permit Amendment (SUP-24-01) Ritz-Carlton Area C Lots 15-18 – 7000 E Lincoln Dr

**PLANNING COMMISSION REVIEW**

The Planning Commission reviewed the Minor Special Use Permit application at the March 5, 2024 work study session. During the work session, the Commission reviewed the project and asked questions regarding the history of the 2021 replat of Area C, if the Ritz branded homes within Area C may serve as rental properties (what and if any CC&Rs are in place), current ownership of the 5 lots, the notification process for the amendment, requested sightline models for the 5 lots, and had overall questions regarding the purpose of this amendment. The Town attorney staff is researching the Five-Star Ritz development agreement as it pertains to short-term rentals and will discuss findings at the April 2<sup>nd</sup> meeting. The Planning Commission indicated the desire for the applicant to formally present and requested an additional Work Session prior to the potential action hearing on this item on April 2<sup>nd</sup>, 2024.

Since the last Planning Commission meeting the Planning Commissioners at separate times had a tour of the development. The applicant removed Lot 19 as this home is under construction and meets required setbacks. The applicant provided additional visuals showing the average setback and the Open Space Criteria encroachment on Lot 16 and 18 (homes under construction) which are part of the application packet (Attachment F). The applicant provided an ownership map showing 8 of the 32 lots are under private ownership. As directed at the last work session, the applicant also contacted these individual lot owners. The applicant is expected to have the required Waiver of Rights and Remedies for the four lots subject to the proposed amendment by the meeting (if not already part of the packet). Stipulation 2 limits the amendment to only the four subject lots, the rear second-story setback, non-livable uses, and a maximum of 550 square feet.

**RECOMMENDATION**

RECOMMENDATION A:

It is recommended the Planning Commission deem the requested amendment to the Five Star/Ritz-Carlton Special Use Permit a Minor Amendment per the criteria listed in Section 1102.7.B of the Zoning Ordinance.

RECOMMENDATION B:

It is recommended that the Planning Commission approve the Five Star/Ritz-Carlton Minor Special Use Permit Amendment in Area C to modify the 35-foot Rear Yard Second Floor setback requirement on five interior lots (Lots 15-18), subject to the following stipulations:

1. All improvements to the Property shall be in substantial compliance with the Narrative, Plans, and Documents:
  - a. Narrative, prepared by Drewett Works, dated March 25, 2024.
  - b. Plan Set, Renderings, Average Setback, and Open Space Sections, prepared by Drewett Works, Sheets A.200, A.201, and A.202, revised March 25, 2024 and March 26, 2024.
2. The 35-foot rear yard second floor main building setback of Lots 15 through 18 of Replat Amended 7000 East Lincoln – Parcel C – Amended IV as shown on Page F-3, Area C Ritz-Carlton Residential Lots, of the Approved Plans as referenced in Stipulation 44 from the 2015 Special Use Permit via Town of Paradise Valley Ordinance 694 be amended requiring that the minimum rear yard livable area second floor setback shall be 35 feet and the minimum rear yard non-livable area second floor setback intended for outdoor covered patio shall be 20 feet with the maximum non-livable area within the rear second floor setback between the 20-foot setback and 35-foot setback not to exceed 550 square feet.
3. All existing Special Use Permit stipulations shall remain in full force and effect, unless changed or modified by Minor Amendment SUP-24-01.
4. The Owner shall provide the Town with a signed Waiver of Claims for Diminution of Value under A.R.S. § 12-1134 (Proposition 207 Waiver) in the form provided by the Town Attorney prior to the Planning Commission approval.

#### **SUMMARY STATEMENT:**

##### Request

The applicant, Drewett Works on behalf of Five Star Development LLC, requests a Minor Special Use Permit (SUP) amendment for Area C of the Five-Star Development project to remove the 35-foot Rear Yard Second Floor setback requirement on four interior lots (Lots 15-18). Any second story, non-livable covered patio, will adhere to the 20-foot rear yard setback requirement.

##### Purpose

The purpose of the April 2<sup>nd</sup> work session is to review the scope of the request and provide an opportunity for the Planning Commission to provide final comments prior to the action meeting that same evening.

##### Location

Area C is a portion of the overall Five-Star Development project consisting of the Ritz-Carlton resort, villas, single-family homes, and resort-related retail. The project is generally bounded by Lincoln Drive, Mockingbird Lane, Indian Bend Road, and the eastern Town limits near Scottsdale Road (Attachment D). Area C is for the Ritz-Carlton Resort Branded Homes located at the northeast corner of Mockingbird Lane and Lincoln Drive. It is bordered by two public roads. These are Lincoln Drive, a major arterial, and Mockingbird Lane, a minor arterial. To the west of Area C are R-43 zoned single-family lots (side yards) of the Mockingbird Acres and Judson subdivisions. To the direct north of Area C is St. Barnabus of the Desert Church, as well as Ritz-Carlton Area A. To the east is the internal private road Palmeraie Boulevard and Ritz-Carlton Area D. And to the south, across Lincoln Drive, R-43 zoned single-family lots (front yards).

##### History

The property located at 7000 E. Lincoln Drive was annexed into the Town in 1964. The Town Council granted the initial Special Use Permit (SUP) zoning in 1987, with Major SUP Amendments approved in 2008 and 2015. No development occurred on the site until after the 2015 Major SUP Amendment. Since 2015, there have been several Managerial and Minor SUP Amendments along with replats as the site has undergone construction. The last Minor SUP Amendment for Area C occurred in January 2020 to allow for expanded basement lightwells to encroach into the building setbacks, allow chimneys and chimney screens to extend 3 feet above the maximum height limit of the house, and to modify several fence/retaining wall heights. The configuration of the subject lots

are as shown on Replat Amended 7000 East Lincoln – Parcel C – Amended IV (Attachment D). It is common for large developments like the Five Star Ritz project to have Special Use Permit amendments to finetune the project as it gets built out.

The 35-foot Rear Yard Second Floor requirement is shown on Page F-3, Area C Ritz-Carlton Residential Lots, of the Approved Plans as referenced in Stipulation 44 from the 2015 SUP via Ordinance 694. Stipulation 44 reads, “Area C may only be improved with up to forty-five (45) detached single-family residential Resort-Branded Homes and uses incidental or accessory thereto, as well as common areas and common use facilities and/or amenities, provided that all such improvements comply with the height and Floor Area limitations shown on Page D-3, and setback limitations as shown on page F-3 of the Approved Plans...”

The Town’s Open Space Criteria requirements were applied along Lincoln Drive and Mockingbird Lane as illustrated in the Road Sections on pages D-9 and D-10 (see attached) of the Ritz-Carlton Resort Technical Book and per the Town’s Special Use Permit Guidelines. The result was an establishment of 35’-0” second story rear yard setbacks as shown on page F-3 of the Ritz-Carlton Resort Technical Book. According to the applicant’s narrative, this second-floor setback was set in place to maintain view corridors around the perimeter of the property by limiting building heights and was unintentionally applied to the internal lots which do not directly impact view corridors from Lincoln Drive and Mockingbird Lane. Lots 15-18 now sit within the interior of the Ritz-Carlton Area C and pose no danger to disrupt the view corridors from around the perimeter of the property.

2015 Original SUP Area B&C Building Setback Table:

Proposed Area C Main Building Setback Table for Lots 15-18 only:

Area B & C Main Building Setbacks	
Front Yard First Floor	20'
Front Yard Second Floor	25'
Side Yard Lots greater than 15,000 sf	15' each side
Side Yard Lots 10,000 - 15,000 sf	20' total (not less than 5')
Rear Yard First Floor	20'
Rear Yard Second Floor	35'
Lot size greater than 15,000 sf	
Single story home with construction limited to a maximum of 20' in height	

AREA C LOTS 15-18 MAIN BUILDING SETBACKS	
Front Yard First Floor	20'
Front Yard Second Floor	25'
Side Yard Lots greater than 15,000 sf	15' each side
Side Yard Lots 10,000 - 15,000 sf	20' total (not less than 5')
Rear Yard First Floor	20'
Rear Yard Second Floor (Livable)	35'
Rear Yard Second Floor (Non-Livable)	20'

**Second-Story Use**

Drewett Works will limit the architecture that encroaches into what was the second story setback to non-livable second floor covered patios with a maximum roof cover of 550 square feet. Five Star Development will inform the current and future owners of the homes on these lots that these patios are to remain non-livable and at no time can be enclosed to create additional livable space.

**DISCUSSION/FACTS:**

**General Plan:**

The proposed improvements are consistent with Section 1.3 of the Town’s General Plan which encourages the continued revitalization and improvement of the Town’s resorts while protecting the adjacent residential neighborhoods.

**Minor Amendment Criteria**

Per Section 1102.7 B (of Article 11 of the Town Zoning Ordinance), a Minor Amendment to a Special Use Permit shall include any proposal which is not a Managerial Amendment and does not:

1. Change or add any uses; or

*This Minor Amendment request will not change or add any uses that are permitted in the current SUP. The use remains single-family.*

2. Increase the floor area of the project by more than 5,000 square feet or constitute an increase of more than 15% upon the existing or, if still under construction, approved floor area square footage of the affected SUP property, whichever is less, with any such increase to be measured cumulatively over a sixty-month period; or

*The modification of the second story setback requirement will not impact the required maximum total residential floor area of 309,375 square feet or the maximum lot coverage/drip line area of 236,250 square feet within the Resort Branded Homes as indicated on the land density table (Page D-3 of the Approved Plans). This proposed amendment will also not have an impact on the 33% open and pervious area requirement of each lot per Stipulation 45.f of the 2015 SUP (Ordinance 694). Lots 15-18 are the smallest lots in terms of overall square footage within Area C. The average lot size of all lots within Area C, excluding 15-18, is 20,324 square feet, with the largest lot being Lot 22 at 27,820 square feet. Lots 15-18 square footages are as follows:*

1. Lot 15 is 13,568 square feet (0.31 acres)
2. Lot 16 is 13,569 square feet (0.31 acres)
3. Lot 17 is 12,848 square feet (0.3 acres)
4. Lot 18 is 13,904 square feet (0.32 acres)

3. Have any material effect on the adjoining property owners that is visible, audible, or otherwise perceptible from adjacent properties that cannot be sufficiently mitigated; or

*Lots 15-18 sit within the interior of the Ritz-Carlton Area C and the rear yard property lines for these lots are approximately 238 feet from the center line of Lincoln Drive and approximately 162 feet 6 inches from the overall site's southern property line. With that, the proposed amendment does not penetrate the Open Space Criteria (20% slope) nor have any negative effect on the view corridors from adjacent properties or around the perimeter of the property. Lots 15-18 are also internal to Area C and are separated from the adjacent front and rear lots by Stellina Vita Drive to the north and Palma Vista Drive to the south. Furthermore, since the creation of the original 2015 SUP, Area C was re-platted in 2021 which deviates a great deal from the original layout, both in terms of configuration and number of lots. The original SUP site layout called for 45 lots with lots 21-45 abutting each other. With the 2021 re-plat, the site was revised to include 32 lots (a 28.8% reduction from the original layout) with no properties abutting each other and are separated by two new internal streets (Stellina Vita Drive and Palma Vita Drive).*

4. Change the architectural style of the existing Special Use Permit.

*The requested second story setback requirement removal for Lots 15-18 does not change the architectural style of the existing Special Use Permit.*

Process

The process for the Minor SUP Amendment is first a pre-application review by the Town staff (completed), Planning Commission review of the SUP (completed), and a Planning Commission public meeting on the SUP (in process - April 2<sup>nd</sup>, 2024).

Public Comment

Public notification was performed in accordance with the public meeting process. Mailing notification was sent to properties within a 1,500 square foot radius of the site on March 8, 2024. Staff did not receive any comments regarding this request.

Five Star Development is in the process of discussing this request with all property owners within Parcel C. Five Star does not foresee any opposition in removing the second story setback requirement for the non-livable covered patios. Confirmation of property owner approval will be presented at the April 2nd Planning Commission meeting.

Next Steps

The Commission must take two actions on a Minor SUP Amendment request. The first action is to determine if the request constitutes a Minor Amendment. If deemed a Minor Amendment, the Commission must either approve the request (with stipulations), deny the request, or continue the application for additional information and/or discussion.

**ATTACHMENT(S):**

- A. Staff Report
- B. Vicinity & Related Maps
- C. Application
- D. Five Star Project Excerpts
- E. Summary of Five Star SUP Amendments
- F. Narrative, Plans & Renderings
- G. Notification Materials
- H. Waiver of Rights and Remedies (Prop 207)
- I. Presentation