

ORDINANCE NUMBER 2019-02

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA, APPROVING A MAJOR AMENDMENT TO THE SPECIAL USE PERMIT FOR PROPERTY ZONED SUP DISTRICT (RESORT) KNOWN AS SMOKE TREE RESORT LOCATED AT 7101 EAST LINCOLN DRIVE, PROVIDING FOR REDEVELOPMENT WITH DEMOLITION OF ALL EXISTING STRUCTURES AND CONSTRUCTION OF A NEW RESORT HOTEL WITH 122 HOTEL KEYS WITH RESORT RELATED RESTAURANT, RETAIL, MEETING SPACE, AND SPA, AND SITE IMPROVEMENTS INCLUDING SURFACE PARKING, LANDSCAPING, LIGHTING, AND IMPROVEMENTS TO SITE INFRASTRUCTURE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Paradise Valley (the “Town”) Planning Commission held a public hearing on March 5, 2019, in the manner prescribed by law, for the purpose of considering an amendment to the Special Use Permit for The Smoke Tree Resort, and recommended denial by a split vote of 3-4 to the Town Council; and

WHEREAS, the Town of Paradise Valley Council (“Town Council”) held a public hearing on [XXXX], in the manner prescribed by law, to hear and to take action on the amendment to the Special Use Permit for The Smoke Tree Resort, as recommended by the Planning Commission; and

WHEREAS, the Town Council finds that the requirements of Section 2-5-2.F, Citizen Review Process, including holding a Citizen Review Session on February 18, 2019, to provide a reasonable opportunity for the applicant, adjacent landowners, and other potentially affected citizens to discuss issues or concerns they may have with the application has been met; and

WHEREAS, this amendment to the Special Use Permit for The Smoke Tree Resort is consistent with the property’s designation as “Resort” in the Town’s General Plan Land Use Map; and

WHEREAS, upon the effective date of this Ordinance, the zoning district of “Special Use Permit – Resort” shall now be shown on the Town’s Zoning Map along with a reference to the new major amendment special use permit reference number on the Town’s official Zoning Map of “SUP 18-05”; and

WHEREAS, in accordance with Article II, Section 1 and 2, Constitution of Arizona, the Town Council has considered the individual property rights and personal liabilities of the residents of the Town before adopting Ordinance #2019-02 (the “Ordinance”).

Date: 10/10/2019

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA THAT:

SECTION I. In General

1. The Special Use Permit (“SUP”) zoning for Smoke Tree Resort allows for resort uses on the approximate 5.3 gross acres of land located at 7101 East Lincoln Drive in the Town of Paradise Valley, Arizona, more particularly described on Exhibit “A-1,” attached hereto (the “Property”).
2. This Major Amendment to the Special Use Permit (SUP 18-05) for Smoke Tree Resort hereby rescinds all prior Special Use Permits for the Property and creates a new Special Use permit to allow for redevelopment with demolition of all existing structures and construction of a new resort hotel with 122 hotel keys with resort related restaurant, retail, meeting space, and spa, and site improvements including surface parking, landscaping, lighting, and improvements to site infrastructure, subject to the Conditions set forth in Section II of this Ordinance.
3. To provide historical reference of what is being rescinded a description of prior amendments to the Special Use Permit for the Property is summarized in Exhibit “B,” attached hereto.
4. All prior Special Use Permit approvals on this Property are rescinded and no longer in full force and effect upon the Effective Date of this Ordinance.
5. This Major Amendment to the Special Use Permit for this Property is in accordance with Section 1102.7 of the Zoning Ordinance.

SECTION II. Conditions. Pursuant to Article XI of the Zoning Ordinance of the Town of Paradise Valley, Arizona (the “Town”), the Town hereby grants to Gentree L.L.C., an Arizona Limited Liability Company, its successors and assigns, Special Use Permit 18-05 by its approval of this Ordinance governing the use of the Property. All capitalized terms contained herein shall have the meanings ascribed to them parenthetically or otherwise in this Ordinance.

This amendment is one of many amendments to the first Special Use Permit on the Property approved by the Town in 1969. This Special Use Permit is intended to supersede and replace all prior Special Use Permits for this Property and rescinds all prior Special Use Permits for the Property. This Special Use Permit is being granted by the Town to permit the continued use and operation of the Property for resort use subject to and in accordance with the stipulations and other provisions set forth herein as shown in Exhibit “C,” attached hereto.

SECTION III. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION IV. Effective Date. This Ordinance shall become effective at the time and in the manner prescribed by law.

Date: 10/10/2019

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PASSED AND ADOPTED by the Mayor and Town Council of the Town of Paradise Valley, Arizona, this _____ day of _____, 2019.

Jerry Bien-Willner, Mayor

SIGNED AND ATTESTED THIS ____ DAY OF _____ 2019.

ATTEST:

APPROVED AS TO FORM:

Duncan Miller, Town Clerk

Andrew Miller, Town Attorney

Date: 10/10/2019

EXHIBIT "A-1"
TO
ORDINANCE NUMBER 2019-02

Existing Legal Description

TOWN OF PARADISE VALLEY
SPECIAL USE PERMIT FOR THE SMOKE TREE RESORT

PARCEL NO. 1

The North half of the Northwest quarter of the Northeast quarter of the Southeast quarter of Section 10, Township 2 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

EXCEPT the East 200 feet, thereof.

PARCEL NO. 2

The North half of the South Half of the Northwest quarter of the Northeast quarter of the Southeast quarter of Section 10, Township 2 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

EXCEPT the East 200 feet, thereof.

Date: 10/10/2019

EXHIBIT "A-2"
TO
ORDINANCE NUMBER 2019-02

Dedicated Easements

TOWN OF PARADISE VALLEY
SPECIAL USE PERMIT FOR THE SMOKE TREE RESORT

[NOTE- Draft language of the easements to be dedicated.]

EXHIBIT "B"
TO
ORDINANCE NUMBER 2019-02

Description of Prior SUP Amendments that are rescinded upon the Effective Date

TOWN OF PARADISE VALLEY
SPECIAL USE PERMIT FOR THE SMOKE TREE RESORT

The Town annexed the property in 1961. The Town approved the original Special Use Permit on March 13, 1969. The list below summarizes the known amendments to the original Special Use Permit, all of which are rescinded upon the Effective Date of this Ordinance.

June 2008	Amendment to the Special Use Permit to renovate the restaurant for a new tenant. Various improvements to the restaurant building along Lincoln Drive were made including the screening of roof mounted mechanical equipment.
May 1971	Amendment to the Special Use Permit to add more kitchen space. The Town approved modification of Cottage 1 to a non-public use for more kitchen space.
March 1969	Establishment of the property for resort use by Special Use Permit, subject to 2 conditions including payment for condemnation of right-of-way on Lincoln Drive and that new leases of commercial space be approved by Town Council.

1 “**Floor Area**” means the area under roof added to the floor area of any second and third
2 story; provided, however that “Floor Area” also includes the horizontal solid portion(s) of
3 trellises and/or open weave roofs, and all the horizontal solid portion of area under roof in
4 accessory buildings such as gazebos, ramadas and other accessory buildings. Floor Area
5 excludes the floor area of any fully subterranean portions of a building, any utility and/or
6 storage facilities that are located subterraneously in order to avoid unsightly view from
7 ground level, courtyard areas, and the portion of any roof overhangs which are not over
8 useable exterior spaces.

9
10 “**Hotel Key**” means a Resort Hotel Unit, served by a single key, which is part of a Resort
11 Hotel, designed and constructed with all furnishings, fixtures and equipment necessary to
12 operate as a single unit for transient occupancy use as a part of such Resort Hotel. Each
13 Hotel Key shall have at least one bathroom and a direct lockable connection from the
14 exterior or a corridor. A Hotel Key may be located in a primary Resort Hotel structure (in
15 a building that includes guest registration, reception and other allowed uses) or in any
16 number of other buildings integrated or associated with such Resort Hotel through
17 landscaping or otherwise. A Hotel Key may be interconnected with another Hotel Key unit
18 through a lockable connection, so that more than one Hotel Key may be rented as a single
19 unit.

20
21 “**Minimum Hotel Keys**” means the 122 Hotel Keys included as part of the Resort Hotel
22 and owned by a single legal Owner which also owns the Minimum Resort Hotel
23 Improvements.

24
25 “**Minimum Resort Hotel Improvements**” means the minimum improvements included
26 in the initial design and construction of the Resort Hotel and including not less than, all of
27 the following elements:

28
29 (a) The Minimum Hotel Keys.

30 (b) One (1) restaurant that provides full-service dinner, which together
31 with other restaurants and food service areas, are collectively capable of serving three (3)
32 daily meals, and as demand warrants, providing room service to the Minimum Hotel Keys.

33 (c) At least one (1) swimming pool.

34 (d) A designated reception area to accommodate guest check-in.,
35 concierge and cashier.

36 (e) A designated area to accommodate vehicle or passenger drop off
37 (such as valet parking services) for Resort Hotel guests

38 “**Open Space Criteria**” means the following criteria related to the height and setback of
39 buildings: No building shall penetrate an imaginary plane beginning at sixteen (16) feet
40 above Original Natural Grade and twenty (20) feet from the exterior property lines of the
41 Property, which plane slopes upward at a ratio of one (1) foot vertically for each five (5)
42 feet horizontally measured perpendicular to the nearest exterior property line of the
43 Property. This limitation shall apply until the maximum allowable height is reached. All

1 Open Space Criteria measurements, calculations, and determinations shall be made using
2 the Existing Legal Description set forth in Exhibit A-1. See illustration Sheet [XXXX] of
3 Approved Plans. In event of conflict between the Open Space Criteria and the Approved
4 Plans, the Approved Plans shall control.

5
6 **“Original Natural Grade”** is defined and set forth on Sheet [XXXX] of the Approved
7 Plans.

8
9 **“Owner”** means Gentree L.L.C., an Arizona Limited Liability Company, its successors
10 and assigns. An Owner may be an individual, corporation, partnership, limited liability
11 company, trust, land trust, business trust or other organization, or similar entity, which in
12 turn may be owned by individuals, shareholders, partners, members or benefitted parties
13 under trust agreements, all of which may take any legal form, and may allocate interests in
14 profits, loss, control or use.

15
16 **“Party”** or **“Parties”** means the Town and Owner, or their successors or assigns.

17 **“Property”** means the real property described in Exhibits “A-1” and “A-2” to Ordinance
18 #2019-02.

19
20 **“Resort”** means the entire Property and all facilities and other improvements existing,
21 developed or redeveloped and used or useful on the Property in general conformance with
22 the Approved Plans and/or these Stipulations.

23
24 **“Resort Hotel”** means the Resort Hotel designated as such and which includes the
25 Minimum Resort Hotel Improvements and not less than [XXXX] square feet of Floor Area.
26 The Resort Hotel shall be owned by a single legal Owner.

27
28 **“Resort Ancillary Facilities and Uses”** means all facilities and uses related or incidental
29 to the operation of a resort or resort hotel and not as an independent business or operational
30 unit, including specifically, but without limitation: restaurants, bars and lounges; spas and
31 salons; fitness facilities; barbershops; indoor and outdoor meeting, convention, display,
32 exhibit, wedding and social function facilities; sale of food and alcohol (for on or off site
33 consumption); catering facilities; outdoor cooking facilities; outdoor dining facilities;
34 gourmet food shops (offering any combination of cooked, frozen, fresh, prepared or pre-
35 packaged foods, beer, wines, liquors, gifts, fresh fruits and vegetables, groceries, sundries,
36 cosmetics, over the counter pharmaceuticals, house wares, and related kitchen, indoor
37 and/or outdoor dining items); deli, coffee, tea, ice cream, yogurt and similar shops or sales;
38 snack bars; central plant, maintenance shop, engineering facilities, housekeeping facilities,
39 laundry, storage and support facilities; valet and other parking facilities, parking decks,
40 garages and areas; gift and sundries shops; flower sales; art and art galleries; jewelry and
41 jewelry shops; fashion eyewear, footwear and apparel sales; sale of hotel items such as
42 furniture, bedding, art, toiletries; other resort retail; tour and other off-site activity offices;
43 administrative, support and other resort offices including temporary offices and facilities
44 for construction, sales, marketing, and design; indoor and outdoor entertainment facilities;
45 ramadas; pools; cabanas; tents; amenities, recreational facilities and fitness facilities. Any
46 such use or facility may be within any Resort Hotel or separate building(s) including
47 individually or grouped in one or more buildings or facilities.

1 **“Resort Hotel Manager”** means the Owner of any Resort Hotel, including any Affiliate
2 thereof or an experienced professional third-party hotel management company. If any
3 Resort Hotel Manager is not the Owner of the Resort Hotel (or an affiliate of such Owner),
4 it shall initially be a hotel management company which has not less than five (5) years’
5 experience managing full service hotels or resorts or which currently manages not fewer
6 than five (5) full service hotels or resorts.

7
8 **“Resort Hotel Owner”** means the single legal owner of the Resort Hotel.

9
10 **“Special Use Permit”** or “SUP-18-05” or “SUP” shall mean this special use permit as
11 approved by Town Ordinance #2019-02.

12
13 **“Special Use Permit Guidelines”** means special use permit guidelines adopted by the
14 Town and in effect as of the Approval Date.

15
16 **“Third Party”** means, with respect to a good faith transaction, any individual or entity
17 other than a Party, an Affiliate of any Party, a principal of a Party or an Affiliate of a
18 principal of any Party, and a spouse, parent, child of a principal of a Party or of an Affiliate
19 of any Party.

20 **“Town”** means the Town of Paradise Valley.

21
22 **“Town Manager”** means the Town Manager or their designee.

23
24 **“Visually Significant Corridors Master Plan”** means the Master Plan approved by the
25 Town Council dated October 2018.

26
27 **“Zoning Ordinance”** means the Town’s zoning ordinance in effect as of the Approval
28 Date, attached hereto as Schedule “2.”

29
30 **III. STIPULATIONS**

31 **A. GENERAL**

32 1. In the event of a conflict between these Stipulations and the Approved
33 Plans, these Stipulations shall govern.

34 2. This Special Use Permit, as it may be amended or superseded from time
35 to time, shall run with the land (i.e., the Property and each part thereof)
36 and any person having or subsequently acquiring title to the Property
37 shall be subject to this Special Use Permit. Once an Owner no longer
38 owns a portion of the Property, such prior Owner shall no longer be
39 subject to this Special Use Permit with respect to such portion of the
40 Property no longer owned, but the then current Owner shall be subject
41 to this Special Use Permit.

42 3. If any portion of the Resort is used in violation of the terms of this
43 Special Use Permit, the Town may, after fair notice, a hearing and a

- 1 reasonable opportunity to correct, impose a monetary sanction on the
2 then Owner of such portion, in an amount not to exceed the maximum
3 amount allowed for violations of the Town Zoning Ordinance for each
4 day such violation exists, in addition to all other orders or sanctions
5 permitted by applicable laws. No such remedy shall be applied to any
6 other Owner or portion of the Resort that is not in violation of this
7 Special Use Permit.
- 8 4. The use of the Property shall at all times conform to all applicable State
9 laws and Town ordinances, except that if there is a conflict between this
10 Special Use Permit and any Town ordinance or other Town
11 requirement, the terms of Stipulation 10 shall be applied to resolve any
12 such conflict.
- 13 5. The redevelopment of, and construction on, the Property shall, subject
14 to these Stipulations, substantially conform to the intent of the
15 Approved Plans. Each of the Approved Plans is hereby incorporated
16 into this Special Use Permit and made an integral part hereof.
- 17 6. A mylar and electronic version of the Approved Plans shall be submitted
18 to the Town within sixty (60) days after the Approval Date.
- 19 7. Nothing in this Special Use Permit or otherwise shall require the
20 operation of the Resort under the name “Smoke Tree,” “Smoke Tree
21 Resort” or any similar or other name. No further consent shall be
22 required to enable the Owner to transfer all or any portion of the Resort,
23 name or rename the Resort, or select or reselect brands or management
24 companies of the Resort; and further provided that the Property shall be
25 subject to this SUP notwithstanding any such transfer.
- 26 8. If any section, subsection, sentence, clause or phrase of this Special Use
27 Permit is for any reason held invalid or unenforceable in a final, non-
28 appealable judgment of any court of competent jurisdiction, such
29 decision shall not affect the validity or enforceability of the remaining
30 portions of this Special Use Permit.
- 31 9. The Town Manager’s approval or determination is provided for in
32 several instances in these Stipulations. The Town Manager shall base
33 their approval on standards and criteria set forth in this Special Use
34 Permit, the Town Code, and the Zoning Ordinance, as reasonably
35 applicable, with the intent to implement the viable development of the
36 Resort as provided in this Special Use Permit. Recognizing that the
37 final design and building permit process for which any particular
38 approval of the Town Manager is sought involves multiple stages,
39 including conceptual, schematic, design development and construction
40 documents, an Owner may seek the approval of the Town Manager in
41 writing at one or more stages of such design. Notwithstanding the
42 foregoing, no construction may occur with respect to any particular

1 element or structure until necessary permits for that element or structure
2 are issued. An Owner may rely upon an approval in proceeding from
3 one stage of design to the next.

4 10. Although the Parties intend that this Special Use Permit, Zoning
5 Ordinance, and the Town Code state a consistent relationship between
6 them, the Parties agree that in the event of a conflict between these
7 documents that the order of priority shall be the (1) Special Use Permit,
8 (2) Zoning Ordinance, and (3) Town Code and agree that the higher
9 priority document shall control.

10 **B. CONSTRUCTION AND DEVELOPMENT STANDARDS**

11 11. A schedule for demolition of the vertical portions of certain existing
12 improvements shall be provided by the Owner.

13 12. All permanent public utilities within the Resort shall be underground
14 (excluding certain equipment that is typically installed above ground
15 which shall be appropriately screened, such as transformers, meters, and
16 other equipment) and located within appropriate easements. The Town
17 Manager may, from time to time, require the granting of such easements
18 to utility companies as deemed reasonably appropriate by entities
19 providing utilities benefitting the Resort that are not covered by
20 easements shown on the final plat. Sewage shall be disposed of by
21 connection with an upsized sewer connection to the Town of Paradise
22 Valley's sewage facilities. All new water and sewage facilities shall be
23 constructed in accordance with plans approved by the Town Manager.

24 13. It is anticipated that construction on, and redevelopment of, the Property
25 will be conducted in phases. No construction permit shall be issued for
26 any phase of construction on the Property until appropriate engineering
27 or architectural plans are submitted to the Town and the issuance of such
28 construction permit for that particular activity is approved by the Town
29 Manager. Submitted plans shall be required to meet the building code
30 most recently adopted by the Town.

31 14. During any period of demolition and initial new construction of one or
32 more phases within the Resort, temporary curb cuts (driveways) shall
33 be allowed on Lincoln Drive and Quail Run Road to allow construction
34 access to the Property; such temporary curb cuts and their location shall
35 be approved by the Town Manager and be coordinated with the Town's
36 Capital Improvement Project known as the Lincoln Drive Roadway
37 Improvements. Temporary construction driveway locations are subject
38 to compliance with Storm Water Pollution Prevention Plan Best

- 1 Management Practices and the review and approval by the Town
2 Manager.
- 3 15. All new construction shall satisfy all fire department requirements for
4 each component of work (which may include temporary fire protection
5 facilities) prior to the issuance of any building permit for such work.
- 6 16. Prior to the issuance of a certificate of occupancy for any individual
7 structure, adequate fire, emergency and other vehicle access and
8 adequate fire service shall be provided for such structure and the
9 particular phase of development in which such structure is located, as
10 determined by the Town Manager.
- 11 17. Owner(s) shall submit a construction phasing schedule prior to the
12 issuance of any building permit for a particular new structure to ensure
13 compliance with all Town ordinances and in order to minimize
14 construction nuisances. This schedule may encompass the building of
15 multiple new structures within a particular phase, and may be modified
16 or amended from time to time. This construction/phasing schedule shall
17 provide information on the following:
- 18 a. Dust and noise control measures
- 19 b. Vehicle/equipment storage/parking
- 20 c. Construction days/hours
- 21 d. The general location of the following elements, which may be
22 relocated from time to time:
- 23 i. Location(s) of a staging area(s) for construction
24 supplies/equipment
- 25 ii. Location of any construction trailer(s) and/or sanitary
26 facility(ies)
- 27 iii. Location of on-site construction materials/debris storage
- 28 iv. Location of fire lanes during the construction period
- 29 e. The approximate beginning and ending for construction of
30 structures within a phase
- 31 18. During the period of demolition or construction of new improvements,
32 signs shall be posted on the Property (or at the entrance to a particular
33 phase) indicating the name and phone number of a person the public
34 may contact with construction-related concerns. Sign details such as the

1 sign size, height and location shall be reviewed and approved by the
2 Town Manager.

3 19. As a pre-requisite to obtaining a building permit for a particular phase
4 of development, the Owner must demonstrate the existence of adequate
5 perimeter screening for such phase prior to construction. For purposes
6 of this requirement, adequate screening shall consist of an existing
7 oleander hedge or a six (6) foot chain link fence with green screening.

8 20. During demolition, site grading, and the initial construction of other on
9 or offsite improvements, Owner(s) shall coordinate the sweeping of
10 Lincoln Drive and the paved portion of Quail Run Road adjacent to the
11 Property to remove construction-related dirt and debris, as reasonably
12 required by the Town Manager.

13 21. The precise location and/or required screening of any backflow
14 preventer or other similar equipment to the extent same would be visible
15 from Lincoln Drive or Quail Run Road shall be approved by the Town
16 Manager.

17 22. One permanent curb cut on Lincoln Drive east of Quail Run Road is
18 permitted at a location as determined by the Town Manager, and
19 requires a deceleration lane, which shall be installed by Owner. The
20 final location of the permanent curb cut shall be consistent with Town
21 Engineer's review and approval of the Final Traffic Impact Analysis.

22 23. The Owner shall arrange for construction phasing within any particular
23 phase in the following sequence:

24 a. Commence native plant salvage, (for those plant materials
25 required to be salvaged pursuant to Town Code §5-8-4 and
26 deemed by a Native Plant Preservation Plan to be certain to
27 survive and worthy of salvage), dust and erosion control
28 measures, job-site mobilization and set-up, and the like.

29 b. Upon completion of the salvage, commence horizontal or civil
30 improvements and site work within such phase, including
31 appropriate erosion and dust control.

32 c. Upon or prior to substantial completion of the civil
33 improvements and site work as reasonably necessary to
34 commence perimeter walls and landscaping for such phase,
35 including areas immediately adjoining such phase, the perimeter
36 landscape plan(s) shall be submitted, reviewed and approved by
37 the Town Manager. Installation of perimeter landscaping shall
38 not be required to commence until adjacent site or structure
39 improvements are sufficiently complete such that additional
40 work will not harm the proposed landscape elements. Perimeter
41 landscaping is landscaping between adjacent edge of roadway

1 and any proposed perimeter structure or parking area on the
2 Property.

3 d. Any required deceleration lanes on Lincoln Drive or curb cuts
4 on Lincoln Drive, may be scheduled independently of the
5 foregoing, in a manner consistent with the anticipated
6 completion of the Town's roadway improvements to Lincoln
7 Drive approved by the Town Manager.

8 e. The Owner shall, at all times during construction, provide Quail
9 Run access of at least fourteen (14) feet in width from Lincoln
10 Drive to the southern Property line.

11 24. Building architecture shall be as shown on the Approved Plans. Changes
12 to the architectural style shall only be made by an approved SUP
13 amendment.

14 25. The color of any roofs visible from ground level at the Property line of
15 the buildings shall have a Light Reflective Value at or less than fifty
16 percent (50%).

17 26. All mechanical equipment shall be screened so that it is not visible from
18 adjoining properties not a part of this Special Use Permit and from
19 adjoining public rights-of-way. Mechanical equipment and mechanical
20 equipment screens shall be included in the total height of any structure
21 to which they are attached. If applicable, mechanical screening may
22 provide the necessary noise attenuation for any mechanical equipment.
23 All mechanical equipment, along with any screens used for attenuation
24 of noise, shall comply with the allowable noise levels defined in the
25 Town's noise ordinance. Noise measurement shall include any installed
26 screening or other attenuation devices.

27 27. Screening of backflow preventers, electric transformers, generators, or
28 other similar equipment (all herein further referred to as "Visually
29 Unappealing Improvements") visible from off the Property shall be
30 located so as to minimize its visual impact and screened from public
31 view, all of which must first be approved by the Town Manager prior to
32 approval of construction of any such Visually Unappealing
33 Improvements.

34 **C. ALLOWED USES**

35 28. The Property may be developed to include the Resort Hotel, and the
36 Resort Ancillary Facilities and Uses. The Property may be developed
37 and redeveloped in one or more phases from time to time in multiple
38 buildings or structures of various height and character, subject to these
39 stipulations. Facilities or structures initially developed for a particular
40 use may be converted or reused from time to time for other allowed uses
41 provided that all other requirements of these stipulations are still met.

1 Not later than one (1) year after the Effective Date, Owner shall submit
2 to the Town a schedule of development stating when vertical
3 construction of the Resort Hotel will commence. The schedule of
4 development in the preceding sentence may be extended if Owner, in its
5 sole discretion, gives written notice to the Town stating the length of the
6 extension. Any single extension shall not exceed three (3) months.
7 Owner may give multiple notices of extension.

8
9 29. The Resort Hotel may be constructed in one (1) or more buildings on
10 the Property provided all such buildings must have an integrated theme
11 and share design cohesiveness, including architecture, signage,
12 pedestrian and service vehicle connections to the primary Resort Hotel
13 structure (the structure which includes guest reception and registration).
14 Facilities located on the Property which also provide function or service
15 for the Resort Hotel such as fitness, spa, restaurants, locker rooms,
16 meeting rooms, offices, and storage shall be included in the Floor Area
17 calculation.

18
19 30. If walls and fences are constructed along Lincoln Drive and Quail Run
20 Road, such walls and fences shall be in accordance with Article XXIV
21 of the Town Zoning Ordinance and shall be measured from property
22 lines; provided that a wall or fence that does not comply with Article
23 XXIV may be approved by the Town Manager. Said wall shall also meet
24 the thirty-three (33) foot corner vision criteria as approved by the Town
25 Engineer.

26
27 31. The maximum hours of public operation of the following specific
28 uses/facilities shall be as set forth below:

- 29 a. Vendor deliveries (generally): 7 am - 7 pm. US Mail, private
30 courier services such as UPS or FedEx, and emergency
31 deliveries: at any time.
- 32 b. Pools, spas and Jacuzzis (except pools, spas and Jacuzzis
33 located indoors or in enclosed private yards including yards
34 such as presidential suites or Resort Hotel suites, which may be
35 used 24 hours/day): 6 am – midnight.
- 36 c. Restaurants and other food service facilities: 6 am - 2 am
- 37 d. Bars/lounges: 10 am – 3 am
- 38 e. Banquet facilities, receptions, weddings and socials: 6 am – 2
39 am
- 40 f. Resort retail: 7 am - midnight
- 41 g. Room service: 24 hours/day

- 1 h. Guest reception and guest services, including up to 100 square
2 feet of retail for guest purchases: 24 hours/day
- 3 j. Parking facilities: 24 hours/day
- 4 k. Spa and fitness facilities: 24 hours/day (use of such facilities
5 by those who are not guests of the Resort, or owners or renters
6 within the Resort and their guests shall be limited to 5 am –
7 midnight).
- 8 l. Trash pickup: 7 am – 7 pm
- 9 m. Outdoor venues, events, or functions with music and/or
10 amplified sound shall comply with the allowable noise levels
11 as defined by the Town’s current noise ordinance.
- 12 32. Unlicensed support vehicles (that is, golf carts, utility vehicles, etc.)
13 may be used to service the Resort but such support vehicles shall not
14 park on public streets.
- 15 33. Parking Structure(s) – Any parking provided or required under this
16 Special Use Permit may, at the Owner’s choice, be located at-grade,
17 below grade or a combination thereof in one or more parking structures
18 or in one or more surface parking areas. The Owner shall submit plans
19 (which initially may be conceptual or schematic drawing(s)) of any
20 proposed parking structures to the Town Manager for determination
21 whether they comply with this Stipulation. The Owner shall comply
22 with a parking study that has been reviewed by the Town Engineer. The
23 following provisions shall apply to any above or below grade parking
24 structures and surface parking areas:
25
26
- 27 a. Parking structures fully (other than ramps leading to or from)
28 below grade (under a building or otherwise) are allowed.
- 29
- 30 b. Surface parking lots are allowed, subject to the following
31 setback requirements:
32
- 33 i. Lincoln Drive: as shown on the Approved Plans.
- 34
- 35 ii. Quail Run Road: as shown on the Approved Plans.
- 36
- 37 iii. Any other exterior property boundary: as shown on the
38 Approved Plans;
- 39
- 40 iv. Any surface parking area shall be appropriately screened by
41 a wall or landscaping to minimize the amount of vehicle
42 headlight trespass off the property.
43

1 v. All surface parking lots may include appropriate signs,
2 lighting (provided any lighting shall comply with this SUP)
3 and landscape as provided in this SUP or the Town's
4 Special Use Permit Guidelines as applicable or otherwise
5 approved by the Town Manager.
6

7 34. Buses and other vehicles may be used to shuttle guests or employees to
8 or from areas not located on the Resort, and between the Resort and
9 other destinations (e.g., airport, shopping facilities, golf courses, etc.).
10 All parking on any public street by any Resort guest, any Owner or their
11 guests, employees of the Resort, any invitee of any Owner, any occupant
12 of any portion of the Resort or any parking service provider is
13 prohibited. Any agreement which allows any person to use the Resort
14 for any purpose shall contain an acknowledgment that parking on any
15 public street is prohibited.
16

17 35. At any time when the parking demand within the Resort is expected to
18 exceed onsite capacity, the Owners of the affected areas shall initiate a
19 parking management plan which may include valet parking or offsite
20 parking arrangements (but not the use of parking on any public street
21 within the Town).

22 **D. HEIGHT AND HEIGHT MEASUREMENT**

23 36. The maximum height of the structures shall not exceed thirty-six (36)
24 feet. The maximum height of the structures will conform to [XXXX] of
25 the Approved Plans. A height envelope will be established following
26 the contours from the Original Natural Grade to an elevation certain
27 above Mean Sea Level.

28 **E. LANDSCAPING**

29
30 37. Landscaping on the Property shall be in substantial compliance with the
31 Approved Plans.
32

33 38. All landscaping that dies shall be replaced in a reasonable amount of
34 time, be in general compliance with the approved landscape plan of the
35 Approved Plans, and shall use material that is on the Approved Plans,
36 Town's Landscape Guidelines, and/or the Visually Significant
37 Corridors Plan for the Property's character zone.
38

39 **F. RIGHT-OF-WAY, PARKING & CIRCULATION**

40
41 39. The Owner shall execute one or more easement(s) in favor of the Town,
42 which shall provide a total right-of-way width of sixty-five feet (65') to
43 the Town; as measured from the centerline of Lincoln Drive adjoining

1 the Property, provided however, that such easement shall not affect
2 calculations for density, setbacks, and Open Space Criteria now and in
3 the future.

4
5 a. The north portion of this right-of-way shall be forty-nine feet
6 (49') in width (the "49-Foot Right-of-Way"). The easement to
7 the Town shall be for public purposes including, but not limited
8 to, landscaping, travel lanes, sidewalk, utilities, and associated
9 public roadway improvements (the "Public Improvements").
10 Owner shall not retain the use of the 49-Foot Right-of-Way

11
12 b. The south portion of this right-of-way shall be sixteen feet (16')
13 in width (the "16-Foot Right-of-Way"). The easement to the
14 Town shall be designated as a roadway easement for possible
15 future Public Improvements. As a result of the small size of the
16 Property as compared to other resorts in the Town, the Owner
17 shall retain the use of the 16-Foot Right-of-Way for the purposes
18 of parking and circulation on the Property.

19
20 40. The Owner Shall execute one or more easement(s) in favor of the Town,
21 which shall provide a total of twenty-five feet (25') of right-of-way to
22 the Town; as measured from the centerline of Quail Run Road adjoining
23 the Property (the "Quail Run Road Right-of-Way"). All travel lanes,
24 public sidewalk (if any), and associated public roadway improvements
25 shall be located within this Quail Run Road Right-of-Way. Such
26 easement shall not affect calculations for density, setbacks, and Open
27 Space Criteria now and in the future.

28
29 a. The west portion of this Quail Run Road Right-of-Way shall be
30 thirteen feet (13') in width. The easement to the Town shall be
31 for public purposes including but not limited to, landscaping,
32 travel lanes, sidewalk, utilities, and associated public roadway
33 improvements (the "Public Improvements").

34
35 b. The east portion of this Quail Run Road Right-of-Way shall be
36 twelve feet (12') in width. The easement to the Town shall be
37 designated as a roadway easement to the Town for possible
38 future Public Improvements. As a result of the small size of the
39 Property as compared to other resorts in the Town, the Owner
40 shall retain the use of the east portion of the Quail Run Road
41 Right-of-Way for the purposes of parking and circulation on the
42 Property.

43 41. The Easements shall be recorded with the Maricopa County Recorder,
44 Maricopa County, Arizona, concurrent or prior to the Effective Date of
45 this Ordinance.
46

1
2 50. Other than as specified in the terms of the roadway easement
3 documents, no above ground structures shall be placed in the roadway
4 easement except approved monument signs and any other approved
5 structures allowed by this Special Use Permit.

6
7 51. Any future site and/or building signage not shown on the Approved
8 Plans shall be governed by the applicable Town Ordinance.
9

10 **H. LIGHTING**

11
12 52. All outdoor lighting shall be in compliance the Approved Plans,
13 including the wattage and color of each lighting fixture. In the event
14 the Approved Plans are not clear, such lighting shall meet the Special
15 Use Permit Guidelines, as such may be amended from time to time.
16

17 53. Unless otherwise included in the Approved Plans, lamps, lighting, or
18 illumination devices within an outdoor light fixture shall not be visible
19 from outside the Property. If the Town receives a complaint from an
20 offsite owner that a lamp or lighting or illumination device within an
21 outdoor light fixture is visible from outside the Property, the Town
22 Manager or designee may inspect the Property and require the Owner to
23 shield such lighting fixture if the Town Manager determines that the
24 light emitting element is visible from outside the Property.
25

26 **I. LANDSCAPING**

27 54. Perimeter landscaping plans (i.e., for those areas between the back of
28 curb and adjacent structures of parking areas) shall be submitted to the
29 Town Manager for review and approval. Perimeter landscaping along
30 Lincoln Drive shall be compliant with the Town's Visually Significant
31 Corridors Master Plan. If new construction allowed under this Special
32 Use Permit does not start within three hundred sixty-five (365) days
33 from issuance of a demolition permit, Owner must either, at Owner's
34 option, replace landscaping or provide other screening where removal
35 of existing landscaping/screening was necessary for demolition.
36 Perimeter landscaping will be maintained by the owner in conformance
37 with the approved plan.
38

39 **J. TEMPORARY USES**

40 55. Temporary event tents or pavilions may be erected on the Event Lawn
41 Area of the Property in accordance with the Town Code Special Event
42 Permit requirements (Chapter 8). No event tent shall be higher than
43 twenty-four (24) feet above Original Natural Grade or closer to any
44 exterior property line than the minimum setbacks shown for a twenty-
45 four (24) foot height building. Placement of event tents shall have no
46 material adverse impact on parking or circulation on site. Temporary

1 event tents or structures shall not be allowed for more than fourteen (14)
2 consecutive days unless located interior to the site, in which case if the
3 Town issues a Tent Permit that runs consecutive to an existing Tent
4 Permit, the event tent or structure will be allowed to remain in place for
5 longer than fourteen (14) consecutive days. Notwithstanding the
6 foregoing, no temporary event tent or structure shall remain in place for
7 more than ninety (90) consecutive days. Temporary event tents are
8 required to receive a Tent Permit from the Town.
9

10 **K. CELLULAR ANTENNAS**

11 56. Cellular and other wireless transmission antennas are permitted,
12 provided that they comply with this Special Use Permit and all
13 applicable Town ordinances, specifically including the current
14 requirement to obtain a conditional use permit. Any cellular antennas
15 shall be designed as integrated architectural features within the
16 structures on the Property and any screening shall be in the same finish
17 and color as the structure on which it is located. There shall be no
18 unscreened projections of cellular antennas on any building above the
19 roofline. Any lease agreement with a wireless operator will specifically
20 allow entry by the Town and its agent for the purpose of inspection and
21 compliance with Town ordinances and will require compliance with
22 Article XII of the Town Zoning Ordinance.
23

24 **L. MANAGEMENT - MAINTENANCE**

25 57. There shall be at least one (1) person designated by the Resort at all
26 times who has been thoroughly briefed on the provisions of this Special
27 Use Permit and who has the authority to resolve, or to refer to others for
28 resolution, all problems related to compliance with this Special Use
29 Permit. All calls from Town residents to the Town or Resort regarding
30 noise or disturbances shall be referred to and addressed by such
31 person(s). The name and contact information for the property manager
32 to be provided to the Town's Community Development Department
33 Director, or designee prior to the issuance of a certificate of completion,
34 and to then be updated within ten (10) days after any property manager
35 change is made. Maintenance of the Resort in general and all common
36 areas specifically, shall be coordinated through a single unified
37 management entity, which may be the Resort Hotel Owner.
38

39 58. All exterior portions of all structures and all driveways, parking areas,
40 landscaping, walls, and lighting shall be kept and maintained in good
41 condition and repair.
42

43 59. Interiors of the building on the Property may be remodeled at any time
44 without an amendment to the Special Use Permit so long as the other
45 aspects of the Property remain in substantial compliance with the

1 Ordinance and the Approved Plans, and all applicable building permits
2 are obtained.

3
4 60. Use of outdoor space by employees for activities such as smoking may
5 create unintended nuisances for persons on adjoining properties. This
6 type of activity shall be permitted at the location proposed on the
7 Approved Plans.

8
9 61. Except as approved as part of a building permit application and during
10 construction periods, no storage of outdoor materials is permitted on the
11 Property that can be seen off site.
12

13 **M. CONDITIONAL APPROVAL**

14 62. This SUP shall be effective as of the Effective Date if, but only if,
15 approved by the Town Council. After this SUP is recorded, if this SUP
16 does not become effective within 365 days or if it is no longer effective,
17 then the Town shall promptly record a notice that this SUP did not
18 become or is no longer effective.

19 **IV. APPROVED PLANS**

20
21 The following plans and documents apply to the Property. In the case of discrepancies
22 between Approved Plans, those with a later date shall take precedence. In the case of
23 discrepancies between Approved Plans and Stipulations, the Stipulations shall take
24 precedence as specified in Section III.A.1.
25

(SUP 18-05)	<ol style="list-style-type: none"> 1. Smoke Tree Resort Major Amendment Application Booklet, dated [XXXX]. 2. Existing Topographic Survey and Original Natural Grade Exhibit dated February 22, 2019. 3. Smoke Tree Resort Traffic Impact Analysis, prepared by CivTech, sealed by Dawn Cartier on [XXXX]. 4. Parking Study for Smoke Tree Resort, prepared by CivTech, sealed by Dawn Cartier on [XXXX]. 5. Water Service Impact Study for Smoke Tree Resort by CVL Sealed by Cassandra Alejandro on [XXXX]. 6. Wastewater Capacity Study for Smoke Tree Resort by CVL Sealed by Cassandra Alejandro [XXXX]. 7. Preliminary Drainage Report for Smoke Tree Resort by CVL Sealed by Oscar Garcia on [XXXX].
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