

**JBW, CHA, SJR, STR, WP REDLINE 03/01/2019**

**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 120 HOTEL KEYS WITH RESORT RELATED RESTAURANT, RETAIL, MEETING SPACE, AND SPA, 30 RESORT RELATED RESIDENCES, TOGETHER WITH 15 ALLOWED “LOCK-OFF” UNITS, AND SITE IMPROVEMENTS INCLUDING SURFACE PARKING AND UNDERGROUND 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 *[insert Planning Commission’s Recommendation here]* to the Town Council; and

WHEREAS, the Town of Paradise Valley Council (“Town Council”) held a public hearing on *[insert date here]*, 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").

**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 120 hotel keys with resort related restaurant, retail, meeting space, and spa, 30 resort related residences, together with 15 "lock-off" units, and site improvements including surface parking and underground 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 (the "SUP 18-05") 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

Date: 03/01/2019

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.

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: 03/01/2019

**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: 03/01/2019

**EXHIBIT "A-2"**  
**TO**  
**ORDINANCE NUMBER 2019-02**  
**Post-Dedication Legal Description**  
**TOWN OF PARADISE VALLEY**  
**SPECIAL USE PERMIT FOR THE SMOKE TREE RESORT**

*[NOTE- Legal description to be updated with correct right-of-way dedication prior to recordation of this Ordinance]*

**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.

**EXHIBIT “C”  
TO  
ORDINANCE NUMBER 2019-02**

**Special Use Permit Conditions**

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

**I. PROJECT DESCRIPTION**

Redevelopment of the Property, that includes a complete demolition of all existing structures and construction of a new resort hotel with 120 hotel keys with resort related restaurant, retail, meeting space, and spa, 30 resort related residences, with a maximum of 15 of such resort related residences to have “lock-off” units, and site improvements including surface parking and underground parking, landscaping, lighting, and improvements to site infrastructure

**II. DEFINITIONS**

**“2019 Development Agreement”** means a development agreement between the Town and the Owner, as it may be amended from time to time, entered into pursuant to the terms of A.R.S. § 9-500.05, which is to be executed contemporaneously with adoption of this SUP.

**“Affiliate”** as applied to any person, means any person directly or indirectly controlling, controlled by, or under common control with, that person or spouse or children of such person, if such person is a natural person. For the purposes of this definition, (i) “control” (including with correlative meaning, the terms “controlling,” “controlled by” and “under common control”), as applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that person, whether through the beneficial ownership of voting securities, by contract or otherwise, and (ii) “person” means and includes natural persons, corporations, limited partnerships, general partnerships, joint stock companies, joint ventures, associations, limited liability companies, limited liability partnerships, limited liability limited partnerships, trusts, land trusts, business trusts or other organizations, whether or not legal entities.

**“Approval Date”** means the date on which both of the following have occurred (i) Ordinance No. 2019-02 is approved (i.e., voted on) by the Town Council of the Town of Paradise Valley, Arizona and (ii) signed by the Mayor.

**“Approved Plans”** means those certain plans and other documents certified by the Town Clerk that are listed in Section IV, attached hereto and incorporated herein by this reference.

**“Branded Residence”** means a Resort Residential unit which has been designed and finished with standards adopted by an organization which provides services for the

1 branding of residences. In the event both the Residences and Principal Resort Hotel are  
2 Branded, then they must be so under the same brand or within the same related and  
3 complimentary brand family. While the specifications for Branded Residences may be  
4 different from Hotel Keys which comprise the Minimum Hotel Keys, they should be  
5 compatible in design with the Hotel Keys. Branded Residences may be sold and resold  
6 and or rented and re-rented through the Resort Rental Management Program or through a  
7 program adopted for their management. A Branded Residence shall initially have the  
8 same furnishings, fixtures, and equipment as the Hotel Keys and maintain such  
9 furnishings, fixtures, and equipment to participate in the Resort Rental Program, but a  
10 Branded Residence may be uniquely customized and furnished by its owner if it is  
11 removed from the Rental Program, and such customizations shall be consistent with the  
12 development standards as set forth in the 2019 Development Agreement.

13  
14 **“CC&Rs”** means one or more sets of conditions, covenants, and restrictions applicable to  
15 discrete portions of the Property that, among other things, implement provisions of these  
16 Stipulations.

17  
18 **“Effective Date”** means the date on which all of the following have occurred: this SUP  
19 and the 2019 Development Agreement have been adopted and approved by the Town  
20 Council, executed by duly authorized representatives of the Town and Owner, and recorded  
21 (if applicable) in the office of the Recorder of Maricopa County, Arizona, and any  
22 applicable referendum period has expired without referral, or any proposed referendum has  
23 been declared invalid in a final non-appealable judgment by a court of competent  
24 jurisdiction, or this SUP (or the 2019 Development Agreement, as applicable) has been  
25 approved by the voters at a referendum election conducted in accordance with Applicable  
26 Laws

27 **“Floor Area”** means the area under roof added to the floor area of any second and third  
28 story; provided, however that “Floor Area” also includes the horizontal solid portion(s) of  
29 trellises and/or open weave roofs, and all the horizontal solid portion of area under roof in  
30 accessory buildings such as gazebos, ramadas and other accessory buildings. Floor Area  
31 excludes the floor area of any fully subterranean portions of a building, any utility and/or  
32 storage facilities that are located subterraneously in order to avoid unsightly view from  
33 ground level, courtyard areas, and the portion of any roof overhangs which are not over  
34 useable exterior spaces. In the case of the Principal Resort Hotel, and notwithstanding  
35 the preceding sentence, Floor Area includes subterranean portions of buildings that are  
36 part of the Principal Resort Hotel and contain areas that are not generally intended to be  
37 accessed by the general public and hotel guests, such as, but not limited to kitchens,  
38 employee locker rooms, cafeterias and/or break rooms, staff offices, security offices,  
39 administrative offices, laundry facilities, storage, maintenance facilities, utility rooms,  
40 and other facilities that are typically described as “back of house” facilities.

41  
42 **“Hotel Key”** means a Resort Unit, served by a single key, which is part of a Resort Hotel,  
43 designed and constructed with all furnishings, fixtures and equipment necessary to  
44 operate as a single unit for transient occupancy use as a part of such Resort Hotel. Each  
45 Hotel Key shall have at least one bathroom and a direct lockable connection from the  
46 exterior or a corridor. A Hotel Key may be located in a primary Resort Hotel structure  
47 (in a building that includes guest registration, reception and other allowed uses) or in any



number of other buildings integrated or associated with such Resort Hotel through landscaping or otherwise, including in a building or buildings with Resort Residential. A Hotel Key may be interconnected with another Hotel Key unit through a lockable connection, so that more than one Hotel Key may be rented as a single unit.

**“Minimum Hotel Keys”** means the 120 Hotel Keys included as part of the Principal Resort Hotel and owned by a single legal Owner which also owns the Minimum Resort Hotel Improvements.

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

(a) The Minimum Hotel Keys.

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

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

(d) At least one (1) fitness area to accommodate professional grade exercise machines and related equipment and/or an area or areas for providing space services such as massage services.

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

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

**“Open Space Criteria”** means the following criteria related to the height and setback of buildings. No building shall penetrate an imaginary plane beginning at sixteen (16) feet above Original Natural Grade and twenty (20) feet from the exterior property lines of the Property, which plane slopes upward at a ratio of one (1) foot vertically for each five (5) feet horizontally measured perpendicular to the nearest exterior property line of the Property. This limitation shall apply until the maximum allowable height is reached. All Open Space Criteria measurements, calculations, and determinations shall be made using the Existing Legal Description set forth in Exhibit A-1. See illustration Sheets 31 and 32 of Approved Plans. In event of conflict between the Open Space Criteria and the Approved Plans, the Approved Plans shall control.

**“Original Natural Grade”** is defined and set forth on Sheets 80-81 of the Approved Plans.

**“Owner”** means Gentree L.L.C., an Arizona Limited Liability Company, its successors and assigns. An Owner may be an individual, corporation, partnership, limited liability

1 company, trust, land trust, business trust or other organization, or similar entity, which in  
2 turn may be owned by individuals, shareholders, partners, members or benefitted parties  
3 under trust agreements, all of which may take any legal form, and may allocate interests  
4 in profits, loss, control or use.

5  
6 **“Party” or “Parties”** means the Town and Owner, or their successors or assigns.

7 **“Principal Resort Hotel”** means the Resort Hotel designated as such and which includes  
8 the Minimum Resort Hotel Improvements and not less than one-hundred seven thousand  
9 and five hundred (107,500) square feet of Floor Area. The Principal Resort Hotel shall  
10 be owned by a single legal Owner.

11  
12 **“Property”** means the real property described in Exhibit “A-2” to Ordinance #2019-02.

13  
14 **“Resort”** means the entire Property and all facilities and other improvements existing,  
15 developed or redeveloped and used or useful on the Property in general conformance  
16 with the Approved Plans and/or these Stipulations.

17  
18 **“Resort Ancillary Facilities and Uses”** means all facilities and uses related or incidental  
19 to the operation of a resort or resort hotel and not as an independent business or  
20 operational unit, including specifically, but without limitation: restaurants, bars and  
21 lounges; spas and salons; fitness facilities; barbershops; indoor and outdoor meeting,  
22 convention, display, exhibit, wedding and social function facilities; sale of food and  
23 alcohol (for on or off site consumption); catering facilities; outdoor cooking facilities;  
24 outdoor dining facilities; gourmet food shops (offering any combination of cooked,  
25 frozen, fresh, prepared or pre-packaged foods, beer, wines, liquors, gifts, fresh fruits and  
26 vegetables, groceries, sundries, cosmetics, over the counter pharmaceuticals, house  
27 wares, and related kitchen, indoor and/or outdoor dining items); deli, coffee, tea, ice  
28 cream, yogurt and similar shops or sales; snack bars; central plant, maintenance shop,  
29 engineering facilities, housekeeping facilities, laundry, storage and support facilities;  
30 valet and other parking facilities, parking garages and areas; gift and sundries shops;  
31 flower sales; art and art galleries; jewelry and jewelry shops; fashion eyewear, footwear  
32 and apparel sales; sale of hotel items such as furniture, bedding, art, toiletries; other resort  
33 retail; marketing, sale and resale of Resort Residential (including through a real estate  
34 sales office) and other resort sales and marketing; tour and other off-site activity offices;  
35 administrative, support and other resort offices including temporary offices and facilities  
36 for construction, sales, marketing, and design; indoor and outdoor entertainment  
37 facilities; ramadas; pools; cabanas; tents; amenities, recreational facilities and fitness  
38 facilities. Any such use or facility may be within any Resort Hotel or separate building(s)  
39 including individually or grouped in one or more buildings or facilities.

40  
41 **“Resort Hotel Manager”** means the Owner of any Resort Hotel, including any Affiliate  
42 thereof or an experienced professional third-party hotel management company. A Resort  
43 Hotel Manager may also manage any other portions of the Resort, including but not  
44 limited to the Resort Residential and Hotel Keys. If any Resort Hotel Manager is not the  
45 Owner of the Resort Hotel (or an affiliate of such Owner), it shall initially be a hotel  
46 management company which has not less than five (5) years’ experience managing full

1 service hotels or resorts or which currently manages not fewer than five (5) full service  
2 hotels or resorts.

3  
4 **“Resort Hotel Owner”** means the single legal owner of the Resort Hotel.

5  
6 **“Resort Rental Management Program”** means a rental management program offered  
7 and managed by the Owner of any Resort Hotel (or Affiliate thereof) or a Resort Hotel  
8 Manager (or Affiliate thereof) which provides rental management service for all Hotel  
9 Keys for such Resort Hotel and other Resort Units where an Owner elects to include such  
10 residences in such Resort Rental Management Program.

11  
12 **“Resort Residential”** means the Resort Units, exclusive of any Hotel Keys.

13  
14 **“Resort Unit”** means all Hotel Keys and all other residential units (including Resort  
15 Residential), which may include a room or group of rooms which can be locked and  
16 served by a single key (or multiple keys). A Resort Unit may be served by one or more  
17 bathrooms, and may be with or without cooking facilities or kitchens. Except for the  
18 requirement that the Minimum Hotel Keys be owned by the Principal Resort Hotel  
19 Owner, a Resort Unit may, subject to these Stipulations, be owned by either an Owner or  
20 a Third Party and may be sold, resold, or may be rented and re-rented from time to time,  
21 including for transient occupancy; and provided further that, except for the requirement  
22 that the Minimum Hotel Keys be owned by the Principal Resort Hotel Owner and  
23 managed by the Resort Hotel Manager thereof, a Resort Unit may only, subject to these  
24 Stipulations, be used for any type of residential occupancy (including transient  
25 occupancy) and may be created as separate legal units through one or more plats or  
26 horizontal property regimes through one or more maps.

27  
28 **“Special Use Permit”** or “SUP-18-05” or “SUP” shall mean this special use permit as  
29 approved by Town Ordinance #2019-02.

30  
31 **“Special Use Permit Guidelines”** means special use permit guidelines adopted by the  
32 Town and in effect as of the Approval Date.

33  
34 **“Third Party”** means, with respect to a good faith transaction, any individual or entity  
35 other than a Party, an Affiliate of any Party, a principal of a Party or an Affiliate of a  
36 principal of any Party, and a spouse, parent, child of a principal of a Party or of an Affiliate  
37 of any Party.

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

39  
40 **“Town Manager”** means the Town Manager or his designee.

41  
42 **“Visually Significant Corridors Master Plan”** means the Master Plan approved by the  
43 Town Council dated October 2018.

44  
45 **“Zoning Ordinance”** means the Town’s zoning ordinance in effect as of the Approval  
46 Date, attached hereto as Schedule “2.”  
47

**III. STIPULATIONS**

**A. GENERAL**

1. In the event of a conflict between these Stipulations and the Approved Plans, these Stipulations shall govern.
2. This Special Use Permit, as it may be amended or superseded from time to time, shall run with the land (i.e., the Property and each part thereof) and any person having or subsequently acquiring title to the Property shall be subject to this Special Use Permit. Once an Owner (including without limitation any owner of a Resort Unit, including each Resort Residential unit, Resort Hotel, or any other Owner) no longer owns a portion of the Property, such prior Owner shall no longer be subject to this Special Use Permit with respect to such portion of the Property no longer owned, but the then current Owner shall be subject to this Special Use Permit.
3. If any portion of the Resort is used in violation of the terms of this Special Use Permit, the Town may, after fair notice, a hearing and a reasonable opportunity to correct, impose a monetary sanction on the then Owner of such portion, in an amount not to exceed the maximum amount allowed for violations of the Town Zoning Ordinance for each day such violation exists, in addition to all other orders or sanctions permitted by applicable laws. No such remedy shall be applied to any other Owner or portion of the Resort that is not in violation of this Special Use Permit.
4. The use of the Property shall at all times conform to all applicable State laws and Town ordinances, except that if there is a conflict between this Special Use Permit and any Town ordinance or other Town requirement, the terms of Stipulation 10 shall be applied to resolve any such conflict.
5. The redevelopment of, and construction on, the Property shall, subject to these Stipulations, substantially conform to the intent of the Approved Plans. Each of the Approved Plans is hereby incorporated into this Special Use Permit and made an integral part hereof.
6. A mylar and electronic version of the Approved Plans shall be submitted to the Town within sixty (60) days after the Approval Date.
7. Nothing in this Special Use Permit or otherwise shall require the operation of the Resort under the name "Smoke Tree," "Smoke Tree Resort" or any similar or other name. No further consent shall be required to enable the Owner to transfer all or any portion of the Resort, name or rename the Resort, or select or reselect brands or management companies of the Resort, except as may be required by the 2019 Development Agreement; and further provided that the

Property shall be subject to this SUP notwithstanding any such transfer. None of the Resort Units or any part of the Property shall, at any time, be operated as a Time-Share Project, as such term is currently defined by the Town Zoning Ordinance or state law.

8. If any section, subsection, sentence, clause or phrase of this Special Use Permit is for any reason held invalid or unenforceable in a final, non-appealable judgment of any court of competent jurisdiction, such decision shall not affect the validity or enforceability of the remaining portions of this Special Use Permit.

9. The Town Manager's approval or determination is provided for in several instances in these Stipulations. The Town Manager shall base his/her approval on standards and criteria set forth in this SUP, the 2019 Development Agreement, the Town Code, and the Zoning Ordinance, as reasonably applicable, with the intent to implement the viable development of the Resort as provided in this SUP and the 2019 Development Agreement. Recognizing that the final design and building permit process for which any particular approval of the Town Manager is sought involves multiple stages, including conceptual, schematic, design development and construction documents, an Owner may seek the approval of the Town Manager in writing at one or more stages of such design. Notwithstanding the foregoing, no construction may occur with respect to any particular element or structure until necessary permits for that element or structure are issued. An Owner may rely upon an approval in proceeding from one stage of design to the next.

10. Although the Parties intend that this Special Use Permit, 2019 Development Agreement, Zoning Ordinance, and the Town Code state a consistent relationship between them, the Parties agree that in the event of a conflict between these documents that the order of priority shall be the (1) Special Use Permit, (2) 2019 Development Agreement, (3) Zoning Ordinance and (4) Town Code and agree that the higher priority document shall control.

#### **B. CONSTRUCTION AND DEVELOPMENT STANDARDS**

11. A schedule for demolition by Owner of the vertical portions of certain existing improvements shall be as provided in the 2019 Development Agreement.

12. All permanent public utilities within the Resort shall be underground (excluding certain equipment that is typically installed above ground which shall be appropriately screened, such as transformers, meters, and other equipment) and located within appropriate easements. The Town Manager may, from time to time, require the granting of such easements to utility companies as deemed reasonably appropriate by entities

1 providing utilities benefitting the Resort that are not covered by  
2 easements shown on the final plat or set forth in the recorded CC&Rs  
3 for the Resort, Resort Hotel, Resort Residential. Sewage shall be  
4 disposed of by connection with an upsized sewer connection to the  
5 Town of Paradise Valley's sewage facilities. All new water and sewage  
6 facilities shall be constructed in accordance with plans approved by the  
7 Town Manager.

8 13. It is anticipated that construction on, and redevelopment of, the Property  
9 will be conducted in phases. No construction permit shall be issued for  
10 any phase of construction on the Property until appropriate engineering  
11 or architectural plans are submitted to the Town and the issuance of such  
12 construction permit for that particular activity is approved by the Town  
13 Manager. Submitted plans shall be required to meet the building code  
14 most recently adopted by the Town.

15 14. During any period of demolition and initial new construction of one or  
16 more phases within the Resort, temporary curb cuts (driveways) shall  
17 be allowed on Lincoln Drive and Quail Run Road to allow construction  
18 access to the Property; such temporary curb cuts and their location shall  
19 be approved by the Town Manager and be coordinated with the Town's  
20 Capital Improvement Project known as the Lincoln Drive Roadway  
21 Improvements. Temporary construction driveway locations are subject  
22 to compliance with Storm Water Pollution Prevention Plan Best  
23 Management Practices and the review and approval by the Town  
24 Manager.

25 15. All new construction shall satisfy all fire department requirements for  
26 each component of work (which may include temporary fire protection  
27 facilities) prior to the issuance of any building permit for such work.

28 16. Prior to the issuance of a certificate of occupancy for any individual  
29 structure, adequate fire, emergency and other vehicle access and  
30 adequate fire service shall be provided for such structure and the  
31 particular phase of development in which such structure is located, as  
32 determined by the Town Manager.

33 17. Owner(s) shall submit a construction phasing schedule prior to the  
34 issuance of any building permit for a particular new structure to ensure  
35 compliance with all Town ordinances and in order to minimize  
36 construction nuisances. This schedule may encompass the building of  
37 multiple new structures within a particular phase and may be modified

or amended from time to time. This construction/phasing schedule shall provide information on the following:

- Dust and noise control measures
- Vehicle/equipment storage/parking
- Construction days/hours
- The general location of the following elements, which may be relocated from time to time:
  - Location(s) of a staging area(s) for construction supplies/equipment
  - Location of any construction trailer(s) and/or sanitary facility(s)
  - Location of on-site construction materials/debris storage
  - Location of fire lanes during the construction period
- The approximate beginning and ending for construction of structures within a phase

18. During the period of demolition or construction of new improvements, signs shall be posted on the Property (or at the entrance to a particular phase) indicating the name and phone number of a person the public may contact with construction-related concerns. Sign details such as the sign size, height and location shall be reviewed and approved by the Town Manager.

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

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

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

22. One permanent curb cut on Lincoln Drive east of Quail Run Road is permitted at a location as determined by the Town Manager, and requires a deceleration lane, which shall be installed by Owner in conjunction with construction on the Property. The final location of the

permanent curb cut) shall be consistent with the requirements set forth in the 2019 Development Agreement.

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

- a. Commence native plant salvage, (for those plant materials required to be salvaged pursuant to Town Code §5-8-4 and deemed by a Native Plant Preservation Plan to be certain to survive and worthy of salvage), dust and erosion control measures, job-site mobilization and set-up, and the like.
- b. Upon completion of the salvage, commence horizontal or civil improvements and site work within such phase, including appropriate erosion and dust control.
- c. Upon or prior to substantial completion of the civil improvements and site work as reasonably necessary to commence perimeter walls and landscaping for such phase, including areas immediately adjoining such phase, the perimeter landscape plan(s) shall be submitted, reviewed and approved by the Town Manager. Installation of perimeter landscaping shall not be required to commence until adjacent site or structure improvements are sufficiently complete such that additional work will not harm the proposed landscape elements. Perimeter landscaping is landscaping between adjacent edge of roadway and any proposed perimeter structure or parking area on the Property.
- d. Any required deceleration lanes on Lincoln Drive or curb cuts on Lincoln Drive, may be scheduled independently of the foregoing, in a manner consistent with the anticipated completion of the Town's roadway improvements to Lincoln Drive approved by the Town Manager.
- e. The Owner shall, at all times during construction, provide Quail Run access of at least fourteen (14) feet in width from Lincoln Drive to the southern Property line.

24. Building architecture, materials, and colors shall be as shown on the Approved Plans. Any future modifications to exterior materials and colors shall be approved by the Town Manager, or designee. Changes



1 to the architectural style shall only be made by an approved SUP  
2 amendment.

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

6 26. All mechanical equipment shall be screened so that it is not visible from  
7 adjoining properties not a part of this Special Use Permit and from  
8 adjoining public rights-of-way. If applicable, mechanical screening may  
9 provide the necessary noise attenuation for any mechanical equipment.  
10 All mechanical equipment, along with any screens used for attenuation  
11 of noise, shall comply with the allowable noise levels defined in the  
12 Town's noise ordinance. Noise measurement shall include any installed  
13 screening or other attenuation devices.

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

21 **C. RESORT HOTEL, RESORT RESIDENTIAL, AND ALLOWABLE**  
22 **USES**

23 28. The Property may be developed to include any Resort Hotel, Resort  
24 Residential, and any Resort Ancillary Facilities and Uses. The Property  
25 may be developed and redeveloped in one or more phases from time to  
26 time in multiple buildings or structures of various height and character,  
27 subject to these stipulations. Facilities or structures initially developed  
28 for a particular use may be converted or reused from time to time for  
29 other allowed uses provided that all other requirements of these  
30 stipulations are still met. The Property may be subdivided with one or  
31 more maps from time to time for the purposes of creating the thirty (30)  
32 approved Resort Residential units. Dwelling units are allowed on the  
33 Property as horizontal property regimes as reflected in one or more  
34 maps. The maximum Floor Area of Resort Residential development  
35 shall be thirty seven thousand five hundred (37,500) (the foregoing  
36 37,500 square feet is tabulated based on the actual Floor Area of the  
37 Resort Residential units and not the Floor Area of any other allowed  
38 elements of the Resort, including, but not limited to, any Resort Hotel,  
39 Hotel Keys, or Resort Ancillary Facilities and Uses. Not later than one  
40 (1) year after the Effective Date, Owner shall submit to the Town a  
41 schedule of development stating when vertical construction of the  
42 Principal Resort Hotel will commence. The schedule of development  
43 in the preceding sentence may be extended if Owner, in its sole

discretion, gives written notice to the Town stating the length of the extension. Any single extension shall not exceed three (3) months. Owner may give multiple notices of extension.

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

30. The Resort Hotel Owner shall establish a single, unified rental management program and process for all Hotel Keys which are a part of such Resort Hotel.

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

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

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

- 1 h. Guest reception and guest services, including up to 400 square  
2 feet of retail for guest purchases: 24 hours/day
- 3 j. Parking facilities: 24 hours/day
- 4 k. Spa & fitness facilities: 24 hours/day (use of such facilities by  
5 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 33. No outdoor patios are allowed on the west side of the property so long  
13 as the adjacent parcels (specifically APN’s 174-63-009A, 174-63-009B,  
14 and 174-63-009C) are zoned residential. If the adjacent parcels are  
15 zoned SUP at a future date, patios can be approved via a Managerial  
16 Amendment to this SUP.
- 17  
18 34. Outdoor patios on the south side of the site shall meet the following  
19 criteria:  
20  
21 a. A perimeter fence at a minimum height as prescribed in the Building  
22 Code shall be provided restricting the occupancy to the patio space  
23 only and preventing occupants from utilizing space outside of the  
24 designated patio.  
25  
26 b. A view shed study shall be completed, taken within 10’ of the  
27 northern most Andaz Hotel Key, at 5’8” above grade. The view shed  
28 study shall show line of sight towards the Smoke Tree property. If  
29 the view study indicates occupants of the third story patios can be  
30 seen from the Andaz Hotel Key, then the patio perimeter wall shall  
31 be constructed of a solid material to screen the patio.  
32
- 33 35. Each owner of any Resort Residential unit may occupy it, permit its  
34 guest(s) to occupy it, or make it available for rental for transient  
35 occupancy uses, residential uses or hospitality uses (rental of these units  
36 is not counted towards the Minimum Hotel Keys requirement, but  
37 would be considered a rental of a Resort Unit in excess of the Minimum  
38 Hotel Keys requirement).  
39
- 40 36. The use of outdoor patios related to the Resort Residential units shall  
41 comply with the allowable noise levels as defined by the Town’s current  
42 noise ordinance.  
43

- 1           37.       Unlicensed support vehicles (that is, golf carts, utility vehicles, etc.)  
2                   may be used to service the Resort but such support vehicles shall not  
3                   park on public streets.  
4
- 5           38.       Parking Structure(s) – Any parking provided or required under this  
6                   Special Use Permit may, at the Owner’s choice, be located at-grade,  
7                   below grade or a combination thereof in one or more parking structures  
8                   or in one or more surface parking areas. The Owner shall submit plans  
9                   (which initially may be conceptual or schematic drawing(s)) of any  
10                  proposed parking structures to the Town Manager for determination  
11                  whether they comply with this Stipulation. The Owner shall comply  
12                  with a parking study that has been reviewed by the Town Engineer. The  
13                  following provisions shall apply to any above or below grade parking  
14                  structures and surface parking areas:  
15
- 16                  a.       Parking structures fully (other than ramps leading to or from) below  
17                          grade (under a building or otherwise) are allowed.  
18
- 19                  b.       Surface parking lots are allowed, subject to the following setback  
20                          requirements:  
21
- 22                          i.   Lincoln Drive: as shown on the Approved Plans.  
23
- 24                          ii. Quail Run Road: as shown on the Approved Plans.  
25
- 26                          iii. Any other exterior property boundary: twenty (20) feet;  
27
- 28                          iv. Any surface parking area shall be appropriately screened by  
29                               a wall or landscaping to minimize the amount of vehicle  
30                               headlight trespass off the property.  
31
- 32                          v. All surface parking lots may include appropriate signs,  
33                               lighting (provided any lighting shall comply with this SUP)  
34                               and landscape as provided in this SUP or the Town’s  
35                               Special Use Permit Guidelines as applicable or otherwise  
36                               approved by the Town Manager.  
37
- 38           39.       Buses and other vehicles may be used to shuttle guests or employees to  
39                   or from areas not located on the Resort, and between the Resort and  
40                   other destinations (e.g., airport, shopping facilities, golf courses, etc.).  
41                   All parking on any public street by any Resort guest, any Owner or their  
42                   guests, employees of the Resort, any invitee of any Owner, any occupant  
43                   of any portion of the Resort or any parking service provider is  
44                   prohibited. Any agreement which allows any person to use the Resort  
45                   for any purpose shall contain an acknowledgment that parking on any  
46                   public street is prohibited.  
47

- 1           40.       At any time when the parking demand within the Resort is expected to  
2                   exceed onsite capacity, the Owners of the affected areas shall initiate a  
3                   parking management plan which may include valet parking or offsite  
4                   parking arrangements (but not the use of parking on any public street  
5                   within the Town).  
6

7           **D.           HEIGHT AND HEIGHT MEASUREMENT**

- 8           41.       Except as set forth herein, the maximum height of the structures shall  
9                   not exceed thirty-six (36) feet. The maximum height of the structures  
10                  will conform to sheet 34 of the Approved Plans. A height envelope  
11                  will be established following the contours from the Original Natural  
12                  Grade to an elevation certain above Mean Sea Level. The following  
13                  building components are allowed to exceed the maximum height of  
14                  each structure (or portion thereof) as follows:

- 15           a.       Chimney – three (3) feet above the maximum height or, where  
16                   applicable, three (3) feet above mechanical screening  
17           b.       Elevator enclosure – three (3) feet above the maximum height or,  
18                   where applicable, three (3) feet above mechanical screening  
19           c.       Towers or other architectural features, – three (3) feet above the  
20                   maximum height or, where applicable, three (3) feet above  
21                   mechanical screening  
22           d.       Mechanical equipment and mechanical equipment screening – six  
23                   (6) feet

- 24           42.       Mechanical equipment and mechanical equipment screens shall not  
25                   exceed thirty-five percent (35%) of the roof area of each structure.

26           **E.           LANDSCAPING**

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

- 38           44.       Landscaping on the Property shall be in substantial compliance with  
39                   the Approved Plans.  
40

1           45.       All landscaping that dies shall be replaced in a reasonable amount of  
2                   time, be in general compliance with the approved landscape plan of the  
3                   Approved Plans and shall use material that is on the Approved Plans,  
4                   Town's Landscape Guidelines, and/or the Visually Significant  
5                   Corridors Plan for the Property's character zone.

6  
7           46.       The Approved Plans show parking spaces along Lincoln Drive that  
8                   could be converted to landscaped area. In the event, the owner pursues  
9                   the foregoing, an updated landscape plan of this area shall be provided  
10                  to the Town Manager, or designee, for review and approval. A parking  
11                  study/statement, prepared by a licensed engineer and approved by the  
12                  Town Engineer, may be required to demonstrate the Property has  
13                  adequate parking. This provision may also apply should there be a  
14                  request to convert other parking spaces on the Property to landscaped  
15                  areas.  
16

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

18  
19       47.       [PLANNING COMMISISON LANGUAGE FOR ADJACENT  
20                  PROPERTY] The Owner shall deed, by dedication and/or easement, a  
21                  total right-of-way width of sixty-five feet (65') to the Town; as  
22                  measured from the centerline of Lincoln Drive adjoining the Property  
23                  (the "Right-of-Way"), provided however that such dedication and/or  
24                  easement shall not affect calculations for density, setbacks, and Open  
25                  Space Criteria now and in the future.  
26

27           a.       The north portion of this Right-of-Way shall be forty-nine feet  
28                  (49') in width and deeded as a dedication to the Town for  
29                  public purposes such as, and not limited to, landscaping, travel  
30                  lanes, sidewalk, utilities, and associated public roadway  
31                  improvements (the "Public Improvements").  
32

33           b.       The south portion of this Right-of-Way shall be sixteen feet  
34                  (16') in width and deeded as a roadway easement to the Town  
35                  for future Public Improvements. [It is expected that the  
36                  Owner's reservation of uses in the roadway easement area will  
37                  be determined by the Town Council in a development  
38                  agreement, or otherwise. The Planning Commission would  
39                  recommend shared left turn ingress and egress with adjoining  
40                  property owners be explained, but also expects that this issue  
41                  will be determined by the Town Council as well.]  
42

43       48.       The Owner Shall deed twenty-five feet (25') of right-of-way to the  
44                  Town; as measured from the centerline of Quail Run Road adjoining  
45                  the Property (the "Quail Run Road Right-of-Way"). All travel lanes,  
46                  public sidewalk (if any), and associated public roadway improvements  
47                  shall be located within this Quail Run Road Right-of-Way. Such

dedication shall not affect calculations for density and setbacks now and in the future.

49. The Right-of-Way and Roadway Easement deed instrument(s) shall be recorded with the Maricopa County Recorder, Maricopa County, Arizona, concurrent or prior to the Effective Date of this Ordinance.

50. No above ground structures shall be placed in the Right-of-Way, except for any approved Town monument and/or Town directional sign(s), utilities, and any other approved structures or uses allowed by this Special Use Permit.

51. The Owner shall construct (or provide payment to the Town in lieu of actual construction) roadway improvements to Lincoln Drive and Quail Run Road as outlined in the 2019 Development Agreement.

52. Shared access to the adjoining property of Lincoln Medical Plaza may be allowable if desired by Owner, and provided that Owner has demonstrated through a traffic/circulation/parking study, prepared by a licensed engineer and approved by the Town Engineer, that such shared access is safe and does not create negative or adverse traffic impacts.

53. The minimum parking space size shall be 180 square feet as defined in Article II, Definitions, of the Town Zoning Ordinance. However, the Approved Plans identify 9-foot by 18-foot parking spaces with a two-foot overhang in the adjoining landscape area (which meets the 180 square-foot requirement). Accordingly, this two-foot landscape area shall, in perpetuity, be kept and maintained clear of structures or plant material that may restrict the parking of a vehicle within this two-foot landscape area. Parking spaces within the underground parking garage shall meet the minimum size of 180 square feet.

54. All designated fire lanes shall maintain a vertical clearance of fourteen (14) feet above actual finished grade and a horizontal clearance of twenty (20) feet to allow passage of emergency vehicles and must meet all Department of Transportation standards.

**G. SIGNAGE**

55. All signs shall be installed in accordance with the Approved Plans

56. No above ground structures shall be placed in the roadway easement except approved monument signs as identified in the 2019 Development Agreement and any other approved structures allowed by this Special Use Permit.

- 1           57.       Any future site and/or building signage not shown on the Approved  
2                   Plans shall be subjected to the Minor SUP Amendment Process.

3  
4       **H.       LIGHTING**

- 5  
6           58.       All outdoor lighting shall be in compliance the Approved Plans,  
7                   including the wattage and color of each lighting fixture. In the event  
8                   the Approved Plans are not clear, such lighting shall meet the Special  
9                   Use Permit Guidelines, as such may be amended from time to time.

- 10  
11          59.       Unless otherwise included in the Approved Plans, lamps, lighting, or  
12                   illumination devices within an outdoor light fixture shall not be visible  
13                   from outside the Property. If the Town receives a complaint from an  
14                   offsite owner that a lamp or lighting or illumination device within an  
15                   outdoor light fixture is visible from outside the Property, the Town  
16                   Manager or designee may inspect the Property and require the Owner to  
17                   shield such lighting fixture if the Town Manager determines that the  
18                   light emitting element is visible from outside the Property.

19  
20       **I.       TEMPORARY USES**

- 21          60.       Temporary event tents or pavilions may be erected on the Event Lawn  
22                   Area of the Property in accordance with the Town Code Special Event  
23                   Permit requirements (Chapter 8). No event tent shall be higher than  
24                   twenty-four (24) feet above Original Natural Grade or closer to any  
25                   exterior property line than the minimum setbacks shown for a twenty-  
26                   four (24) foot height building. Placement of event tents shall have no  
27                   material adverse impact on parking or circulation on site. Temporary  
28                   event tents or structures shall not be allowed for more than fourteen  
29                   (14) consecutive days unless located interior to the site, in which case  
30                   if the Town issues a Tent Permit that runs consecutive to an existing  
31                   Tent Permit, the event tent or structure will be allowed to remain in  
32                   place for longer than fourteen (14) consecutive days. Notwithstanding  
33                   the foregoing, no temporary event tent or structure shall remain in  
34                   place for more than ninety (90) consecutive days. Temporary event  
35                   tents are required to receive a Tent Permit from the Town.

36  
37       **J.       CELLULAR ANTENNAS**

- 38          61.       Cellular and other wireless transmission antennas are permitted,  
39                   provided that they comply with this Special Use Permit and all  
40                   applicable Town ordinances, specifically including the current  
41                   requirement to obtain a conditional use permit. Any cellular antennas  
42                   shall be designed as integrated architectural features within the  
43                   structures on the Property and any screening shall be in the same finish  
44                   and color as the structure on which it is located. There shall be no  
45                   unscreened projections of cellular antennas on any building above the  
46                   roofline. Any lease agreement with a wireless operator will



specifically allow entry by the Town and its agent for the purpose of inspection and compliance with Town ordinances and will require compliance with Article XII of the Town Zoning Ordinance.

**K. MANAGEMENT - MAINTENANCE**

62. There shall be at least one (1) person designated by the Resort at all times who has been thoroughly briefed on the provisions of this Special Use Permit and who has the authority to resolve, or to refer to others for resolution, all problems related to compliance with this Special Use Permit. All calls from Town residents to the Town or Resort regarding noise or disturbances shall be referred to and addressed by such person(s). The name and contact information for the property manager to be provided to the Town's Community Development Department Director, or designee prior to the issuance of a certificate of completion, and to then be updated within ten (10) days after any property manager change is made. Maintenance of the Resort in general and all common areas specifically, shall be coordinated through a single unified management entity, which may be the Principal Resort Hotel Owner or a master association of Owners.
63. All exterior portions of all structures and all driveways, parking areas, landscaping, walls, and lighting shall be kept and maintained in good condition and repair.
64. Interiors of the building on the Property may be remodeled at any time without an amendment to the Special Use Permit so long as the other aspects of the Property remain in substantial compliance with the 2019 Development Agreement and the Approved Plans and all applicable building permits are obtained.
65. Use of outdoor space by employees for activities such as smoking may create unintended nuisances for persons on adjoining properties. This type of activity shall be located near the rear and sides of the building, at the location proposed on the Approved Plans.
66. Except as approved as part of a building permit application and during construction periods, no storage of outdoor materials is permitted on the Property that can be seen off site.
67. A maintenance, repair and replacement regime shall be formulated by Owner(s) and incorporated into one or more CC&Rs which shall be a first priority lien (junior only to existing matters of record other than monetary liens and the 2019 Development Agreement) on the Resort or each particular phase, as the case may be. Said regime shall provide for governance through a master developer of the Resort or of a phase, or through an authorized or duly formulated association of certain, some,

or all Owners of the Resort or phased parts thereof. Said regime shall set forth and contain the minimum following elements:

- a. All exterior portions of all structures and all roadways, parking areas, landscaping, walls, pools and lighting shall be kept and maintained in a working first-class condition, commensurate with a mixed-use resort project serving multiple uses and Owners so that each part is benefited by the first-class condition of each other part.
- b. Adequate and reasonable assessments shall be made of each Owner to reasonably fund estimated budgets for the maintenance, repair, replacement, and care of the completed Resort and/or each phase thereof.
- c. A governance mechanism to protect all Owners and insure the reasonable and adequate maintenance of all components of all phases of the Resort, including the power to access and enter upon the property of another for the purpose of enforcing the regime.

**L. CONDITIONAL APPROVAL**

68. This SUP shall be effective as of the Effective Date if, but only if, the 2019 Development Agreement is approved by the Town Council and signed by Owner. After this SUP is recorded, if this SUP does not become effective within 365 days or if it is no longer effective, then the Town shall promptly record a notice that this SUP did not become or is no longer effective.

**IV. APPROVED PLANS** *[Will need to update with the final plans/documents]*

The following plans and documents apply to the Property. In the case of discrepancies between Approved Plans, those with a later date shall take precedence. In the case of discrepancies between Approved Plans and Stipulations, the Stipulations shall take precedence as specified in Section III.A.10.

(SUP 18-05)	<ol style="list-style-type: none"><li>1. Smoke Tree Resort Major Amendment Application Booklet, dated February 12, 2019</li><li>2. Existing Topographic Survey and Original Natural Grade Exhibit dated February 22, 2019</li><li>3. Exterior Elevations by PHX Architecture dated February 22, 2019</li><li>4. Conceptual South Patio Plan and Section by PHX Architecture dated February 22, 2019</li><li>5. Proposed Signage Plan by PHX Architecture dated February 25, 2019</li><li>6. Smoke Tree Resort Traffic Impact Analysis, prepared by CivTech, sealed by Dawn Cartier on February 12, 2019.</li></ol>
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	<ol style="list-style-type: none"><li>7. Parking Study for Smoketree Resort, prepared by CivTech, Sealed by Dawn Cartier on November 20, 2018.</li><li>8. Parking Study Comment Response for Smoketree Resory prepared by CivTech, Sealed by Dawn Cartier on February 12, 2019.</li><li>9. Water Service Impact Study for Smoke Tree Resort by CVL Sealed by Cassandra Alejandro February 12, 2019.</li><li>10. Preliminary Drainage Report for Smoke Tree Resort by CVL Sealed by Oscar Garcia on February 11, 2018 (typo on date)</li></ol>
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**V. UPDATES TO APPROVED PLANS PRIOR TO COUNCIL CONSIDERATION**

The following plans and documents shall be updated prior to scheduling the item for a Town Council Study Session. This may not be a comprehensive list, any items not listed below that need to be updated in the opinion of the Community Development Director for consistency shall also be included:

All Documents

Update reference from Rental Pool to Rental Program  
Remove patios from west side of buildings on all plans.  
Update all renderings and photo simulations  
Correct various typos throughout

Traffic Study

Update to address Town Engineers Comments

Parking Study

Update to address Town Engineers Comments, any additional parking spaces to provided in an enlarged underground garage if necessary.

Signage Plans

Remove sign 9 from the plans  
Revise sign 8 to 15 square feet maximum, 5' in height maximum, no more than 3

Smoke Tree Resort SUP – Major Amendment Application Booklet Dated February 12, 2019

Sheet 3 – Applicable page numbers  
Sheet 6 – Reference to 44' height  
Sheet 7 – Lot coverage percentages  
Sheet 7 – Update parking narrative  
Sheet 7 – Emergency Vehicle Access Route diagram references a drawing that needs to be added  
Sheet 7 – Deliveries and refuse collection statement updated to indicate no deliveries unloading on Quail run  
Sheet 9 – Update parking stalls  
Sheet 16 – Update garage parking numbers to reflect additional space along south wall  
Sheet 23 – Show height of Sign 1 to top of architectural feature

Date: 03/01/2019

- 1 Sheet 30 – Update elevations to show a maximum height of 36’ with flat roofs and 42’  
2 for the mechanical screening for up to 35% of the roof area. Show all chimneys and  
3 elevator overruns integrated into architectural features
- 4 Sheet 31 – Update open space diagram to match new elevations and renderings and  
5 showing a maximum height of 35’ and 42’ for mechanical screening. Update the width  
6 of the existing right-of-way from 35’5” to 25’.
- 7 Sheet 34 – Update to match proposed site plans, show 24’ on Quail run and 36’ height  
8 max.
- 9 Sheet 36 – Update to include square footages for each individual use type.