

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 denial by a vote of 4 to 3 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 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.

Date: 03/21/2019

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: 03/21/2019

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: 03/21/2019

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 breakfast 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 with a minimum size of four hundred (400) square feet to accommodate professional grade exercise machines and related equipment and/or an area or areas for providing spa services such as massage services with a minimum size of two thousand five hundred (2,500) square feet.

(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.

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

7
8 **“Party”** or **“Parties”** means the Town and Owner, or their successors or assigns.

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

13
14 **“Property”** means the real property described in Exhibit “A-2” to Ordinance #2019-02.

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

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

42
43 **“Resort Hotel Manager”** means the Owner of any Resort Hotel, including any Affiliate
44 thereof or an experienced professional third-party hotel management company. A Resort
45 Hotel Manager may also manage any other portions of the Resort, including but not
46 limited to the Resort Residential and Hotel Keys. If any Resort Hotel Manager is not the
47 Owner of the Resort Hotel (or an affiliate of such Owner), it shall initially be a hotel

1 management company which has not less than five (5) years' experience managing full
2 service hotels or resorts or which currently manages not fewer than five (5) full service
3 hotels or resorts.

4
5 **"Resort Hotel Owner"** means the single legal owner of the Resort Hotel.

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

12
13 **"Resort Residential"** means the Resort Units, exclusive of any Hotel Keys. While the
14 specifications for Resort Residential unit(s) may be different from Hotel Keys which
15 comprise the Minimum Hotel Keys, they should be compatible in design with the Hotel
16 Keys. Resort Residential unit(s) may be sold and resold and or rented and re-rented
17 through the Resort Rental Management Program or through a program adopted for their
18 management. A Resort Residential unit shall initially have the same furnishings,
19 fixtures, and equipment as the Hotel Keys and maintain such furnishings, fixtures, and
20 equipment to participate in the Resort Rental Program, but a Resort Residential unit may
21 be uniquely customized and furnished by its owner if it is removed from the Rental
22 Program, and such customizations shall be consistent with the development standards as
23 set forth in the 2019 Development Agreement.

24
25 **"Resort Unit"** means all Hotel Keys and all other residential units (including Resort
26 Residential), which may include a room or group of rooms which can be locked and
27 served by a single key (or multiple keys). A Resort Unit may be served by one or more
28 bathrooms, and may be with or without cooking facilities or kitchens. Except for the
29 requirement that the Minimum Hotel Keys be owned by the Principal Resort Hotel
30 Owner, a Resort Unit may, subject to these Stipulations, be owned by either an Owner or
31 a Third Party and may be sold, resold, or may be rented and re-rented from time to time,
32 including for transient occupancy; and provided further that, except for the requirement
33 that the Minimum Hotel Keys be owned by the Principal Resort Hotel Owner and
34 managed by the Resort Hotel Manager thereof, a Resort Unit may only, subject to these
35 Stipulations, be used for any type of residential occupancy (including transient
36 occupancy) and may be created as separate legal units through one or more plats or
37 horizontal property regimes through one or more maps.

38
39 **"Special Use Permit"** or "SUP-18-05" or "SUP" shall mean this special use permit as
40 approved by Town Ordinance #2019-02.

41
42 **"Special Use Permit Guidelines"** means special use permit guidelines adopted by the
43 Town and in effect as of the Approval Date.

44
45 **"Third Party"** means, with respect to a good faith transaction, any individual or entity
46 other than a Party, an Affiliate of any Party, a principal of a Party or an Affiliate of a
47 principal of any Party, and a spouse, parent, child of a principal of a Party or of an Affiliate
48 of any Party.

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

2
3 “**Town Manager**” means the Town Manager or his designee.

4
5 “**Visually Significant Corridors Master Plan**” means the Master Plan approved by the
6 Town Council dated October 2018.

7
8 “**Zoning Ordinance**” means the Town’s zoning ordinance in effect as of the Approval
9 Date, attached hereto as Schedule “2.”

10
11 **III. STIPULATIONS**

12 **A. GENERAL**

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

15 2. This Special Use Permit, as it may be amended or superseded from
16 time to time, shall run with the land (i.e., the Property and each part
17 thereof) and any person having or subsequently acquiring title to the
18 Property shall be subject to this Special Use Permit. Once an Owner
19 (including without limitation any owner of a Resort Unit, including
20 each Resort Residential unit, Resort Hotel, or any other Owner) no
21 longer owns a portion of the Property, such prior Owner shall no
22 longer be subject to this Special Use Permit with respect to such
23 portion of the Property no longer owned, but the then current Owner
24 shall be subject to this Special Use Permit.

25 3. If any portion of the Resort is used in violation of the terms of this
26 Special Use Permit, the Town may, after fair notice, a hearing and a
27 reasonable opportunity to correct, impose a monetary sanction on the
28 then Owner of such portion, in an amount not to exceed the maximum
29 amount allowed for violations of the Town Zoning Ordinance for each
30 day such violation exists, in addition to all other orders or sanctions
31 permitted by applicable laws. No such remedy shall be applied to any
32 other Owner or portion of the Resort that is not in violation of this
33 Special Use Permit.

34 4. The use of the Property shall at all times conform to all applicable
35 State laws and Town ordinances, except that if there is a conflict
36 between this Special Use Permit and any Town ordinance or other
37 Town requirement, the terms of Stipulation 10 shall be applied to
38 resolve any such conflict.

39 5. The redevelopment of, and construction on, the Property shall, subject
40 to these Stipulations, substantially conform to the intent of the
41 Approved Plans. Each of the Approved Plans is hereby incorporated
42 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 providing utilities benefitting the Resort that are not covered by easements shown on the final plat or set forth in the recorded CC&Rs for the Resort, Resort Hotel, Resort Residential. Sewage shall be disposed of by connection with an upsized sewer connection to the Town of Paradise Valley's sewage facilities. All new water and sewage facilities shall be constructed in accordance with plans approved by the Town Manager.
13. It is anticipated that construction on, and redevelopment of, the Property will be conducted in phases. No construction permit shall be issued for any phase of construction on the Property until appropriate engineering or architectural plans are submitted to the Town and the issuance of such construction permit for that particular activity is approved by the Town Manager. Submitted plans shall be required to meet the building code most recently adopted by the Town.
14. During any period of demolition and initial new construction of one or more phases within the Resort, temporary curb cuts (driveways) shall be allowed on Lincoln Drive and Quail Run Road to allow construction access to the Property; such temporary curb cuts and their location shall be approved by the Town Manager and be coordinated with the Town's Capital Improvement Project known as the Lincoln Drive Roadway Improvements. Temporary construction driveway locations are subject to compliance with Storm Water Pollution Prevention Plan Best Management Practices and the review and approval by the Town Manager.
15. All new construction shall satisfy all fire department requirements for each component of work (which may include temporary fire protection facilities) prior to the issuance of any building permit for such work.
16. Prior to the issuance of a certificate of occupancy for any individual structure, adequate fire, emergency and other vehicle access and adequate fire service shall be provided for such structure and the

particular phase of development in which such structure is located, as determined by the Town Manager.

17. Owner(s) shall submit a construction phasing schedule prior to the issuance of any building permit for a particular new structure to ensure compliance with all Town ordinances and in order to minimize construction nuisances. This schedule may encompass the building of 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

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

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

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

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

C. RESORT HOTEL, RESORT RESIDENTIAL, AND ALLOWABLE USES

28. The Property may be developed to include any Resort Hotel, Resort Residential, and any Resort Ancillary Facilities and Uses. The Property may be developed and redeveloped in one or more phases from time to time in multiple buildings or structures of various height and character, subject to these stipulations. Facilities or structures initially developed for a particular use may be converted or reused from time to time for other allowed uses provided that all other requirements of these stipulations are still met. The Property may be subdivided with one or more maps from time to time for the purposes of creating the thirty (30) approved Resort Residential units. Dwelling units are allowed on the Property as horizontal property regimes as reflected in one or more maps. The maximum Floor Area of Resort Residential development shall be thirty seven thousand five hundred (37,500) (the foregoing 37,500 square feet is tabulated based on the actual Floor Area of the Resort Residential units and not the Floor Area of any other allowed elements of the Resort, including, but not limited to, any Resort Hotel, Hotel Keys, or Resort Ancillary Facilities and Uses. Not later than one (1) year after the Effective Date, Owner shall submit to the Town a schedule of development stating when vertical construction of the Principal Resort Hotel will commence. The schedule of development 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, as amended
12 from time to time.
- 13 33. No outdoor patios or balconies are allowed on the west side of the
14 property so long as the adjacent parcels (specifically APN’s 174-63-
15 009A, 174-63-009B, and 174-63-009C) are zoned residential. If the
16 adjacent parcels are zoned for uses that include the issuance of a Special
17 Use Permit at a future date, patios or balconies on the west side of the
18 Property can be approved through a Managerial Amendment to this
19 SUP.
- 20
21 34. Outdoor patios on the south side of the site shall meet the following
22 criteria:
23
24 a. A perimeter fence at a minimum height as prescribed in the Building
25 Code shall be provided restricting the occupancy to the patio space
26 only and preventing occupants from utilizing space outside of the
27 designated patio.
28
29 b. A view shed study shall be completed, taken within 10’ of the
30 northern most Andaz Hotel Key, at 5’8” above grade. The view shed
31 study shall show line of sight towards the Smoke Tree property. If
32 the view study indicates occupants of the third story patios can be
33 seen from the Andaz Hotel Key, then the patio perimeter wall shall
34 be constructed of a solid material and of adequate height to screen
35 the patio occupants.
36
37 35. Each owner of any Resort Residential unit may occupy it, permit its
38 guest(s) to occupy it, or make it available for rental for transient
39 occupancy uses, residential uses or hospitality uses (rental of these units
40 is not counted towards the Minimum Hotel Keys requirement, but
41 would be considered a rental of a Resort Unit in excess of the Minimum
42 Hotel Keys requirement).
43

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

for any purpose shall contain an acknowledgment that parking on any public street is prohibited.

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

D. HEIGHT AND HEIGHT MEASUREMENT

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

- a. Chimney – three (3) feet above the maximum height or, where applicable, three (3) feet above mechanical screening
- b. Elevator enclosure – three (3) feet above the maximum height or, where applicable, three (3) feet above mechanical screening
- c. Towers or other architectural features, – three (3) feet above the maximum height or, where applicable, three (3) feet above mechanical screening
- d. Mechanical equipment and mechanical equipment screening – six (6) feet

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

E. LANDSCAPING

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

- 1 44. Landscaping on the Property shall be in substantial compliance with
2 the Approved Plans however, additional landscaping shall be required
3 on the southern side of the Property, above and beyond that shown on
4 the Landscape Plan in the Approved Plans, as as to create a full visual
5 barrier between the Property and the adjoining property to the south in
6 a manner similar to the graphic exterior Elevations, South Elevation,
7 Page 32 of the Approved Plans, within a three year period after
8 planting.
9
- 10 45. All landscaping that dies shall be replaced in a reasonable amount of
11 time, be in general compliance with the approved landscape plan of the
12 Approved Plans and shall use material that is on the Approved Plans,
13 Town's Landscape Guidelines, and/or the Visually Significant
14 Corridors Plan for the Property's character zone.
15
- 16 46. The Approved Plans show parking spaces along Lincoln Drive that
17 could be converted to landscaped area. In the event, the owner pursues
18 the foregoing, an updated landscape plan of this area shall be provided
19 to the Town Manager, or designee, for review and approval. A parking
20 study/statement, prepared by a licensed engineer and approved by the
21 Town Engineer, may be required to demonstrate the Property has
22 adequate parking. This provision may also apply should there be a
23 request to convert other parking spaces on the Property to landscaped
24 areas.
25

26 **F. RIGHT-OF-WAY, PARKING & CIRCULATION**
27

- 28 47. The Owner shall deed, by dedication and/or easement, a total right-of-
29 way width of sixty-five feet (65') to the Town; as measured from the
30 centerline of Lincoln Drive adjoining the Property (the "Right-of-
31 Way"), provided however that such dedication and/or easement shall
32 not affect calculations for density, setbacks, and Open Space Criteria
33 now and in the future.
34
- 35 a. The north portion of this Right-of-Way shall be forty-nine feet
36 (49') in width and deeded as a dedication to the Town for
37 public purposes such as, and not limited to, landscaping, travel
38 lanes, sidewalk, utilities, and associated public roadway
39 improvements (the "Public Improvements").
40
- 41 b. The south portion of this Right-of-Way shall be sixteen feet
42 (16') in width and deeded as a roadway easement to the Town
43 for future Public Improvements. [It is expected that the
44 Owner's reservation of uses in the roadway easement area will
45 be determined by the Town Council in a development
46 agreement, or otherwise. The Planning Commission would
47 recommend shared left turn ingress and egress with adjoining

property owners be explained, but also expects that this issue will be determined by the Town Council as well.]

48. The Owner Shall deed twenty-five feet (25') of right-of-way to the Town; as measured from the centerline of Quail Run Road adjoining the Property (the "Quail Run Road Right-of-Way"). All travel lanes, public sidewalk (if any), and associated public roadway improvements 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 specified 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.
57. Any future site and/or building signage not shown on the Approved Plans shall be subjected to the Minor SUP Amendment Process.

H. LIGHTING

58. All outdoor lighting shall be in compliance the Approved Plans, including the wattage and color of each lighting fixture. In the event the Approved Plans are not clear, such lighting shall meet the Special Use Permit Guidelines, as such may be amended from time to time.
59. Unless otherwise included in the Approved Plans, lamps, lighting, or illumination devices within an outdoor light fixture shall not be visible from outside the Property. If the Town receives a complaint from an offsite owner that a lamp or lighting or illumination device within an outdoor light fixture is visible from outside the Property, the Town Manager or designee may inspect the Property and require the Owner to shield such lighting fixture if the Town Manager determines that the light emitting element is visible from outside the Property.

I. TEMPORARY USES

60. Temporary event tents or pavilions may be erected on the Event Lawn Area of the Property in accordance with the Town Code Special Event Permit requirements (Chapter 8). No event tent shall be higher than twenty-four (24) feet above Original Natural Grade or closer to any exterior property line than the minimum setbacks shown for a twenty-four (24) foot height building. Placement of event tents shall have no material adverse impact on parking or circulation on site. Temporary event tents or structures shall not be allowed for more than fourteen (14) consecutive days unless located interior to the site, in which case if the Town issues a Tent Permit that runs consecutive to an existing Tent Permit, the event tent or structure will be allowed to remain in place for longer than fourteen (14) consecutive days. Notwithstanding the foregoing, no temporary event tent or structure shall remain in place for more than ninety (90) consecutive days. Temporary event tents are required to receive a Tent Permit from the Town.
61. In the event that two or more temporary tent structures are in use at the same time, a valet parking plan (to be approved by the Town Manager

or his/her designee at their reasonable discretion) shall be required and utilized so as to avoid a shortage of parking spaces.

J. CELLULAR ANTENNAS

62. Cellular and other wireless transmission antennas are permitted, provided that they comply with this Special Use Permit and all applicable Town ordinances, specifically including the current requirement to obtain a conditional use permit. Any cellular antennas shall be designed as integrated architectural features within the structures on the Property and any screening shall be in the same finish and color as the structure on which it is located. There shall be no unscreened projections of cellular antennas on any building above the 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

63. 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.
64. 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.
65. 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.
66. 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.

67. 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.

68. 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

69. 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

- 1 discrepancies between Approved Plans and Stipulations, the Stipulations shall take
2 precedence as specified in Section III.A.10.

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| (SUP 18-05) | <ol style="list-style-type: none">1. Smoke Tree Resort Major Amendment Application Booklet, dated March 12, 20192. Conceptual South Patio Plan and Section by PHX Architecture dated February 22, 20193. Smoke Tree Resort Traffic Impact Analysis, prepared by CivTech, sealed by Dawn Cartier on February 12, 2019.4. Parking Study for Smoketree Resort, prepared by CivTech, Sealed by Dawn Cartier on November 20, 2018.5. Parking Study Comment Response for Smoketree Resort prepared by CivTech, Sealed by Dawn Cartier on February 12, 2019.6. Water Service Impact Study for Smoke Tree Resort by CVL Sealed by Cassandra Alejandro February 12, 2019.7. Preliminary Drainage Report for Smoke Tree Resort by CVL Sealed by Oscar Garcia on February 11, 2018 (typo on date) |
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