

OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL  
20041368701 11/22/2004 13:38  
ORD547-31-1-1--A,N  
ELECTRONIC RECORDING

1  
2 When recorded, return to:  
3 Paradise Valley Town Attorney  
4 6401 East Lincoln Drive  
5 Paradise Valley, Arizona 85253  
6  
7  
8

9 **ORDINANCE NUMBER 547**  
10 **RE-RECORDED**  
11

12  
13 **AN ORDINANCE OF THE TOWN OF PARADISE**  
14 **VALLEY, ARIZONA, AMENDING THE SPECIAL USE**  
15 **PERMIT FOR LA POSADA RESORT, 4949 EAST**  
16 **LINCOLN DRIVE PROVIDING FOR: RENOVATION**  
17 **OF EXISTING RESORT BUILDINGS;**  
18 **CONSTRUCTION OF NEW RESORT VILLAS, SUITES,**  
19 **GUEST ROOMS, AND SUPPORT FACILITIES;**  
20 **IMPROVEMENTS TO EXISTING LANDSCAPING,**  
21 **SIGNAGE, PARKING, AND OUTDOOR LIGHTING;;**  
22 **AND, IMPROVEMENTS TO SITE INFRASTRUCTURE**  
23 **PROVIDING FOR SEVERABILITY; AND PROVIDING**  
24 **FOR AN EFFECTIVE DATE.**  
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29  
30 The Town of Paradise Valley Ordinance Number 547 is hereby re-recorded to correct the  
31 previously inaccurate numbering format contained in Exhibit B.

OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL  
20041315096 11/10/2004 09:34  
ORD547-30-1-1--N  
ELECTRONIC RECORDING

1  
2 When recorded, return to:  
3 Paradise Valley Town Attorney  
4 6401 East Lincoln Drive  
5 Paradise Valley, Arizona 85253  
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10 **ORDINANCE NUMBER 547**

11  
12 **AN ORDINANCE OF THE TOWN OF PARADISE**  
13 **VALLEY, ARIZONA, AMENDING THE SPECIAL USE**  
14 **PERMIT FOR LA POSADA RESORT, 4949 EAST**  
15 **LINCOLN DRIVE PROVIDING FOR: RENOVATION**  
16 **OF EXISTING RESORT BUILDINGS;**  
17 **CONSTRUCTION OF NEW RESORT VILLAS, SUITES,**  
18 **GUEST ROOMS, AND SUPPORT FACILITIES;**  
19 **IMPROVEMENTS TO EXISTING LANDSCAPING,**  
20 **SIGNAGE, PARKING, AND OUTDOOR LIGHTING;;**  
21 **AND, IMPROVEMENTS TO SITE INFRASTRUCTURE**  
22 **PROVIDING FOR SEVERABILITY; AND PROVIDING**  
23 **FOR AN EFFECTIVE DATE.**  
24

25  
26 WHEREAS, the Town of Paradise Valley Planning Commission held public hearings on  
27 September 21, 2004 and October 5, 2004, in the manner prescribed by law, for the  
28 purpose of considering an amendment to the Special Use Permit for La Posada Resort,  
29 and recommended approval to the Town Council; and  
30

31 WHEREAS, the Town Council at its meetings of October 28, 2004 and November 4,  
32 2004, held public hearings as prescribed by law to hear the amendment to the Special Use  
33 Permit and take action on the amendment to the Special Use Permit as recommended by  
34 the Planning Commission.  
35

36 **NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN**  
37 **COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA THAT:**  
38

39 SECTION 1. Amendment to the Special Use Permit. A Special Use Permit on a parcel  
40 of land, as described in Exhibit A attached hereto, is hereby amended to allow for use  
41 of such parcel as a resort and all related uses, including: renovation of existing resort  
42 buildings; construction of new resort villas, suites, guest rooms, and support facilities;  
43 improvements to existing landscaping, signage, parking, and outdoor lighting; and,  
44 improvements to site infrastructure, subject to the stipulations set forth in Exhibit B,  
45 attached hereto. The proposed amendment is in accordance with Sect 1107 of the  
46 Zoning Ordinance, specifically:  
47

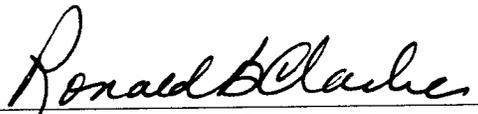
- 48
- It is authorized in the town's adopted general plan, as amended

- 1           • It will not be detrimental to, interfere with or adversely affect existing uses or  
2 character of adjacent properties, persons residing or working in the vicinity, the  
3 neighborhood, the public health, safety, peace, comfort and general welfare, or  
4 the purpose of the zone in which it is proposed, and  
5           • It will be in full conformity to any conditions, requirements or standards  
6 prescribed in the permit, in the zoning ordinance and the ordinances of the  
7 town.

8  
9 SECTION 2. Severability. If any section, subsection, sentence, clause, phrase or portion  
10 of this ordinance is for any reason held invalid or unconstitutional by a court of  
11 competent jurisdiction, such portion shall be deemed a separate, distinct and independent  
12 provision and such holding shall not affect the validity of the remaining portions thereof.

13  
14 SECTION 3. Effective Date. This ordinance shall become effective at the time and in  
15 the manner prescribed by law.

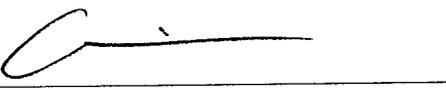
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17 PASSED AND ADOPTED by the Mayor and Town Council of the Town of Paradise  
18 Valley, Arizona, this 4th day of November, 2004.

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21 \_\_\_\_\_  
22 Ronald B. Clarke, Mayor

23  
24 ATTEST:

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27 \_\_\_\_\_  
28 Lenore P. Lancaster, Town Clerk

29  
30 APPROVED AS TO FORM:

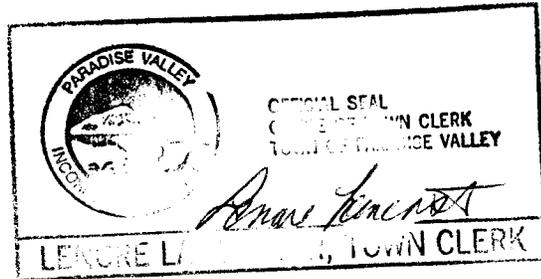
31  
32   
33 \_\_\_\_\_  
34 Andrew M. Miller, Town Attorney  
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**CERTIFICATION**

I, Lenore P. Lancaster, Town Clerk, certify that this is a correct copy of Ordinance Number 547 duly adopted by the Town Council of Paradise Valley at a meeting held on the 4<sup>th</sup> day of November 2004. This Ordinance appears in the minutes of the meeting, and has not been rescinded or modified and is now in effect. I further certify that the municipal corporation is duly organized and existing, and has the power to take the action called for by the foregoing ordinance.

  
\_\_\_\_\_  
Lenore P. Lancaster, Town Clerk



**EXHIBIT A  
TO  
ORDINANCE NUMBER 547**

[Legal Description of Property]

That certain portion of the North Half of the Southwest Quarter of Section 8, Township 2 North, Range 4 East of the Gila and Salt River Base and Meridian, Town of Paradise Valley, Maricopa County, Arizona, and the improvements thereon, more particularly described as follows:

**Commencing** at the Center of said Section;

Thence S 89°58'18" W along the east-west mid-section line of said section a distance of 658.04 feet to the Northeast Corner of the West Half of the Northeast Quarter of said Southwest Quarter;

Thence S 00°04'19" E along the east line of said West Half a distance of 55.00 feet to a point in the south right of way line of Lincoln Drive, said point being the **Point Of Beginning**;

Thence continuing S 00°04'19" E along said east line a distance of 1264.12 feet to the Southeast Corner of said West Half;

Thence S 89°59'10" W along the south line of said West Half a distance of 658.98 feet to the Southwest Corner of said West Half;

Thence N 00°04'02" W along the west line of said West Half a distance of 659.38 feet to the Southeast Corner of the Northeast Quarter of the Northwest Quarter of said Southwest Quarter;

Thence S 89°59'19" W along the south line of said Northeast Quarter a distance of 618.47 feet to the east right of way line of Tatum Boulevard, said east right of way line being parallel with and 40.00 feet east of the west line of said Northeast Quarter;

Thence N 00°02'41" W along said east right of way line a distance of 609.40 feet to an angle point therein;

Thence N 44°57'49" E 14.14 feet to the south right of way line of Lincoln Drive, said south right of way line being parallel with and 40.00 feet south of said east-west mid-section line;

Thence N 89°58'18" E along said south right of way line a distance of 190.00 feet to an angle point therein;

Thence N 00°02'41" W 7.00 feet;

Thence N 89°58'18" E parallel with and 33.00 feet south of said east-west mid-section line a distance of 418.54 feet to an angle point therein;

Thence S 00°02'18" E 22.00 feet;

Thence N 89°58'18" E parallel with and 55.00 feet south of said east-west mid-section line a distance of 658.58 feet to the **Point Of Beginning**.

Containing 27.981 acres more or less.

**EXHIBIT B  
TO  
ORDINANCE NUMBER 547**

**TOWN OF PARADISE VALLEY  
SPECIAL USE PERMIT FOR LA POSADA RESORT  
SUP-04-03**

**I. PROJECT DESCRIPTION**

Pursuant to Article XI of the Zoning Ordinance of the Town of Paradise Valley, Arizona (“Town”), the Town hereby grants to PV Resort Associates, LLC, a Delaware limited liability company, its successors and assigns (collectively, the “Resort Hotel Owner”), this amendment to the prior Special Use Permit governing the use of the real property described below (the “Property”), which amendment shall be effective as of the date of approval by the Town Council (the “Approval Date”). All capitalized terms contained herein are defined pursuant to the definitions stated herein.

The Property subject to this Special Use Permit is currently owned by the Resort Hotel Owner and is comprised of approximately 28 acres located at the southeast corner of Tatum Boulevard and Lincoln Drive in the Town of Paradise Valley, Arizona, all as more particularly described on Exhibit A attached hereto. This amendment is referred to throughout as “this Special Use Permit” to distinguish it from the prior Special Use Permit governing the use of the Property. The Town issued its first Special Use Permits for the Property in 1977; since then, the Town has issued numerous amendments to the 1977 Special Use Permits (the 1977 Special Use Permit, as amended, is referred to herein below as the “prior Special Use Permit”). This Special Use Permit is intended to supersede and replace the prior Special Use Permit. This Special Use Permit is being granted by the Town to permit the continued use and operation of the Property as a resort subject to and in accordance with the stipulations and other provisions set forth herein.

Subject to the stipulations and other provisions set forth herein, the facilities and uses authorized to be developed, redeveloped and used on the Property include the following: Twenty Four (24) Cabana Casitas which may be sold (and thereafter resold) to a third party and used as provided herein; Hotel Rooms which may only be owned by the Resort Hotel Owner and used as provided herein; Forty-four (44) Hotel Suites which may be sold (and thereafter resold) to a third party and used as provided herein; Thirty Four (34) Resort Villas which may be sold (and thereafter resold) to a third party and used as provided herein; and the Resort Ancillary Facilities and Uses; and such other facilities and uses as are shown on the Site Plan.

**II. DEFINITIONS**

"Approved Plans" means those certain plans and other documents listed in Section III.A.5 below.

"Cabana Casitas" means the 24 new Resort Units identified as “Cabana Casitas” on the Site Plan.

“Height” means a measurement taken from finished grade to the highest point of the structure. Raising the finished grade by placing fill solely for the purpose of adding additional height to a structure is prohibited.

“Hotel Rooms” means the 148-158 (such number may vary within this range subject to stipulation 25 hereof) new or remodeled Resort Units shown on the Site Plan which are neither “Hotel Suites,” “Cabana Casitas” nor “Resort Villas” and which are to be owned by the Resort Hotel Owner in common with the remainder of the Resort (excluding the Hotel Suites, Cabana Casitas and Resort Villas).

“Hotel Suites” means the 44-66 (such number may vary within this range subject to stipulation 25 hereof) new Resort Units identified as “Hotel Suites” on the Site Plan.

“Marketing Center” means those area(s) within the Resort to be used for the sale, resale and marketing of the Cabana Casitas, Hotel Suites, Resort Villas, and the Resort in general.

“Resort” means the entire Property and all facilities and other improvements existing, developed or redeveloped on the Property in general conformance with the Site Plan and/or these stipulations.

"Resort Ancillary Facilities and Uses" means all facilities and uses related or incidental to the operation of a resort, including specifically, but without limitation: restaurants, bars and lounges; spas and salons; meeting, convention, wedding and social function facilities; sale of food and alcohol; catering facilities; outdoor cooking facilities; outdoor dining facilities; gourmet food shop (offering prepared and pre-packaged foods, wines, liquors, gifts, fresh fruits and vegetables, groceries, sundries, cosmetics, over the counter pharmaceuticals, housewares, and related kitchen, indoor and/or outdoor dining items); deli, coffee, tea, ice cream, yogurt and similar shops or sales; snack bars; physical plant, maintenance shop, laundry, storage and support facilities; valet and other parking facilities; automobile rentals; gift and sundries shop; flower sales; art gallery; jewelry shop; fashion, eyewear, footwear and apparel sales; sale of hotel items such as furniture, bedding, art, toiletries, etc; other resort retail; marketing, sale and resale of Cabana Casitas, Hotel Suites and Resort Villas and other Resort sales and marketing; travel agency offices; tour and other off-site activity offices; administrative, support and other resort offices; indoor and outdoor entertainment; ramadas; pools; other recreational uses and services, amenities, recreational facilities and uses now or hereafter located, offered or utilized at any other deluxe resort now or hereafter operating in Maricopa County, Arizona.

"Resort Unit" means a room, or group of rooms, served by a single key, which is part of a resort complex, as such is defined by the Town Zoning Ordinance. A Resort Unit may be served by one or more bathrooms, and may be with or without cooking facilities. A Resort Unit may, subject to the stipulations and other provisions set out below, be owned by either the Resort Hotel Owner or a third party. As reflected on the Approved Plan Sheet A03, each Cabana Casita may have multiple keys.

“Resort Villas” means the 34 new Resort Units identified as “Resort Villas” on the Site Plan.

“Retail Use” means a dedicated facility open to the general public offering for sale goods and merchandise as in accordance with the definition for “Resort Ancillary Facilities and Uses”. Restaurants and the incidental sale of products and services incidental to or in conjunction with restaurant or other typical resort uses shall not be considered Retail Use.

"Site Plan" means that certain Site Plan (Sheet A01) dated September 14, 2004 prepared by Allen & Philp Architects.

“Town Manager” means the Paradise Valley Town Manager or his designee.

### **III. STIPULATIONS**

#### **A. GENERAL**

1. As of the Approval Date, this Special Use Permit 04-03 shall supersede and replace all prior Special Use Permits, subject to stipulations 12 and 13 below.
2. This Special Use Permit shall run with the land and any person having or subsequently acquiring title to any portion of the Property shall be subject to this Special Use Permit, as it applies to the portion of the Property owned thereby and as it may be amended or superseded from time to time. Once an owner (including, without limitation, a third party owner of a Resort Unit or the Resort Hotel Owner) no longer owns a portion of the Property, such prior owner shall not be subject to this Special Use Permit.
3. If the Resort is used in violation of the terms of this Special Use Permit, the Town Council may, after fair notice, a hearing and a reasonable opportunity to correct, terminate this Special Use Permit or, if the Council so determines, after fair notice, a hearing and a reasonable opportunity to correct, the Council may impose a sanction in an amount not to exceed the maximum amount allowed for violations of the Town Zoning Ordinance for each day such violation exists.
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 requirement, this Special Use Permit shall prevail.
5. The redevelopment and construction of the Property shall, subject to the stipulations set forth herein, substantially conform with those certain plans and other documents (collectively, the “Approved Plans”) marked and certified by the Paradise Valley Town Clerk which are listed in Exhibit B (attached).

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 Site Plan (Sheet AO1) and Landscape Plan (Sheet L1) and electronic version of the other Approved Plans shall be submitted to the Town within 60 days after the Town Council's approval of this Special Use Permit.
7. Nothing in this Special Use Permit or otherwise shall require the operation of the Resort under the name "La Posada," "La Posada Resort" or any similar or other name. No further consent shall be required to enable the Resort Hotel 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. None of the Resort Units or any part of the Resort shall be operated as a Time-Share Project, as such term is defined by the Town Zoning Ordinance.
8. If any section, subsection, sentence, clause or phrase of this Special Use Permit is for any reason held illegal, invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Special Use Permit.
9. The Town and the Resort Hotel Owner believe and intend that the provisions of this Special Use Permit are valid and enforceable. In the unlikely event that this Special Use Permit is declared by a court of competent jurisdiction to be invalid or unenforceable, the Resort may be used and operated as a legal non-conforming use in accordance with the stipulations and other provisions set out herein until such time as a special use permit or other applicable zoning for the Resort is issued by the Town for the Property, it being the intent of the Town that in such event the Town will promptly issue a special use permit or other zoning classifications containing stipulations and other provisions which are identical to, or as near to identical as possible, to those contained in this Special Use Permit.

**B. DEVELOPMENT**

10. All utilities within the Resort shall be underground and located within appropriate easements. The Town Manager may from time to time require the granting of such easements as deemed reasonably appropriate for utilities benefiting the Cabana Casitas, Hotel Suites or Resort Villas that are not covered by easements shown on the final plat or suites map or set forth in the recorded CC&Rs for the Resort. Sewage shall be disposed of by connection with the City of Phoenix sewer system. All water and sewage facilities shall be constructed in accordance with plans approved by the Town Manager.
11. No construction permit shall be issued for any 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. Construction permits may be applied for with respect to different components of the work (e.g., grading, foundation, walls, underground utilities, drainage facilities, offsite improvements, different buildings or groups of buildings and/or their interiors) for the redevelopment of the Resort in phases and, following approval by the Town Manager, construction permits shall be issued for those components and work may proceed pursuant to those permits.

12. If the Resort Hotel Owner does not apply for the initial building permit for the first element of work (excluding the Marketing Center, Resort Villas, fence permits, and grading permits) within 24 months following the Approval Date, then this Special Use Permit shall be of no further force or effect. If the Resort Hotel Owner fails to timely apply for the initial building permit for redevelopment of the Property, the prior Special Use Permit shall remain in force and effect. Improvements to the Property (other than the Resort Villas but including the initial remodeling of existing structures to remain on the Property) authorized by this Special Use Permit must be completed within five years from issuance of such initial building permit, subject to the right to rebuild or remodel at any time after a casualty. After the fifth year, interiors of any structure may continue to be remodeled at any time without an amendment to this Special Use Permit so long as such remodeling remains within the range of the total number of Resort Units specified within this Special Use Permit.
13. Until the commencement of initial demolition for the redevelopment of the Resort authorized by this Special Use Permit (other than demolition of the interior of any existing buildings in association with the Marketing Center), the prior Special Use Permit shall control the use and development of the Property.
14. The interior of any existing or newly constructed building within the Arrival Zone may be improved and used as a Marketing Center. The interior of any one Resort Villa and/or any one Cabana Casita may also, from time to time, be improved and used as a Marketing Center.
15. The existing driveway from Tatum Boulevard may be used only for construction purposes. However, the existing driveway from Tatum Boulevard shall be permanently closed upon the earlier of (a) the issuance of the certificate of occupancy for the last of the Resort Villas shown on the Site Plan or (b) five years from issuance of the initial building permit described in stipulation 12 above. Prior to the issuance of a certificate of occupancy for any Resort Villa, adequate fire, emergency and other vehicle access and adequate fire hydrants shall be provided in the Resort Villa Zone as determined by the Town Manager.

16. If construction has not commenced on any Resort Villa lot by a date that is five years after issuance of the initial building permit for the first element of work (excluding the Marketing Center and grading permits), any such Resort Villa lot shall be landscaped as reasonably required by the Town Manager.
17. The Resort Hotel Owner's development plans shall meet all fire department requirements for each component of work prior to the issuance of any building permit for such work. A pre-demolition meeting must be held with the Town Manager prior to demolition of any structures.
18. The Resort Hotel Owner shall submit a construction schedule prior to the issuance of any building permit to ensure compliance with all Town ordinances and in order to minimize construction nuisances. This construction schedule shall include the following:
  - Dust and noise control measures
  - Vehicle/equipment storage/parking
  - Construction days/hours
  - Location of staging area for construction supplies/equipment
  - Location of any construction trailer and sanitary facility
  - Location of on-site construction-materials/debris storage
  - Location of fire lanes during the construction period
19. During construction, a sign shall be posted on the Property indicating the name and phone number of a person the public may contact with construction-related concerns.
20. During construction, the Resort Hotel Owner shall sweep Lincoln Drive and Tatum Boulevard adjacent to the Property to remove construction-related dirt and debris, as reasonably required by the Town Manager.
21. The Resort Hotel Owner shall install a six-foot wide meandering sidewalk along Lincoln Drive, adjacent to the Property, generally in the location shown on the Site Plan. The final design shall coincide with the Town's design and be approved by the Town Manager. The existing sidewalk along Tatum Boulevard adjacent to the Resort shall be re-constructed after the right turn lane has been installed in accordance with the Town's design.
22. The precise location and/or required screening of any backflow preventer or other similar equipment visible from Lincoln Drive or Tatum Boulevard shall be approved by the Town Manager.
23. The public improvements (i.e., the dedicated right turn lane from northbound Tatum to eastbound Lincoln, the two deceleration lanes on Lincoln Drive at the western and middle drives, and the new right turn out

only, eastern drive on Lincoln) shall be installed as depicted on the Site Plan. The precise location and design of these public improvements shall be approved by the Town Manager. In lieu of bonding for these improvements, no final certificate of occupancy for any of the new Resort structures (other than the Marketing Center) will be issued until such public improvements (other than the closure of the existing Tatum Drive pursuant to stipulation 15 above and completion of the curb, gutter, sidewalk, and landscaping at this entry location) are complete as determined by Town Manager.

24. The maximum height of buildings shall not exceed twenty-four feet except as noted on Exhibit C. Chimneys shall be excluded from the twenty-four foot maximum height provided the width of the chimney above the roof line shall not be greater than five feet or seven and one-half percent of the side of the building the chimney is a part of.
25. The precise location (i.e., footprint) of any building or other structure (other than the Resort Villas), or any portion thereof, may vary by up to ten feet in any direction from the location shown on the approved Site Plan, provided that (i) the minimum perimeter setbacks depicted on the Site Plan shall be maintained, (ii) the new location satisfies criteria depicted on Exhibit C, and (iii) prior approval from the Town Manager is granted. The precise location (i.e. footprint) of any building or other structure, or any portion thereof, in the Resort Villas Zone may vary by up to five feet in any direction from the location shown on the approved Site Plan, provided that (i) the minimum building setbacks as depicted on the Site Plan shall be maintained, (ii) a separation of ten feet between the various Resort Villas shall be maintained, (iii) the new location satisfies Exhibit C, and (iv) prior approval from the Town Manager is granted. The square footage of a particular building or structure as set forth on Sheet A03 may be greater or less than what is shown on Sheet A03, subject to the following restrictions: (i) there shall be no increase in the total square footage of the Resort Villas and (ii) the Project Total Square Footage for all buildings shall not exceed 427, 650 as set forth on Sheet A03. Building 10 on the Site Plan may be replaced with the new building as shown on Sheet A16 of the Approved Plans which shall be substantially similar to Building 6 shown on Sheet A10 of the Approved Plans. If Building 10 is so replaced, then the number of Hotel Suites will increase to 66 and the number of Hotel Rooms will decrease to 148. The sale of Hotel Suites in the new building 10 to third parties shall be subject to the stipulations applicable to Hotel Suites.
26. The building elevations, materials and colors may vary from that shown on the Approved Plans, provided that they are consistent with the architectural style as determined by the Town Manager.

27. The maximum Project Total Square Footage for all buildings (427,650) is shown on Sheet A03 of the Approved Plans. Mezzanines and basements are not included in square footage calculations and are not limited by the square footages shown on Sheet A03.
28. Restrictions Related to Issuance of Resort Villa Certificates of Occupancy
- a. Prior to issuance of a certificate of occupancy for the first Resort Villa all of the following shall occur:
- (1) The shell structures of the “Plaza Buildings” as shown on the Site Plan are substantially complete.
  - (2) Building permits have been issued for the shell structure of the Lodge Building and the final framing (i.e., last inspection before installation of sheet rock on the walls) inspection for not less than 90% of the Lodge Building has been completed by the Town’s building inspector.
  - (3) All necessary infrastructure serving such Resort Villa is complete, including such items as access roads and the overflow parking area shown as Lot 2 of the Site Plan.
  - (4) Permits have been pulled for the three level parking structure (at the north east section of the Property) and its excavation is complete.
  - (5) Evidence of binding loan commitments have been provided to the Town Manager and Town Attorney evidencing that the Resort Hotel Owner has secured adequate construction financing necessary to construct the Resort improvements (other than the Resort Villas), including all of the Hotel Rooms, Hotel Suites, Cabana Casitas, the Lodge Building and Plaza Buildings. Such financing commitments may be provided by one or more lenders in one or more loans, or by a consortium of lenders. In addition, in the event the Resort Hotel Owner elects to construct the Resort (other than the Resort Villas) without construction financing ( i.e., using funds available or provided by sources other than a loan), adequate evidence, such as verified statements from funding sources that there are adequate cash funds available, will be provided to the Town Manager and Town Attorney ensuring that the Resort Hotel Owner has funds available to construct the Resort improvements, including the Hotel Rooms, Hotel Suites, Cabana Casitas, the Lodge Building and Plaza Buildings.

(6) Public improvements have been completed as per stipulation 23.

- b. If there is a material change in the source of funding or a material change of ownership between the issuance of the first certificate of occupancy and the final certificate of occupancy, similar evidence to that required in a.(5) above shall promptly be provided to the Town Manager and Town Attorney. If such evidence does not satisfy the requirements of a.(5) above, then the Town is not required to continue issuing certificates of occupancy for the Resort Villas until such condition is satisfied.
  - c. Notwithstanding a and b above, upon substantial completion of the Resort improvements (other than the Resort Villas), including all of the Hotel Rooms, Hotel Suites, Cabana Casitas, the Lodge Building and Plaza Buildings, only a.(3) of stipulation 28 shall apply.
29. With respect to all Resort Units other than the Resort Villas, the number of such Resort Units may be increased by not more than nine units from the number shown on the Approved Plans, provided that the provisions of stipulations 24 and 26 are met.
30. Any mechanical equipment on the roof of any building shall be screened so that it is not visible from adjacent property.
31. In the Resort Villa Zone, there shall be changes in paving appearance to distinguish parking from driving areas (as indicated on plan A01). Driving areas shall include twenty-foot drive lanes and adequate turn around as approved by the Town Manager.
32. Stipulations set forth in stipulations 32 through 46 control any construction, alterations, landscaping and accessory structures and uses within a Resort Villa lot.
33. Construction, Setbacks and Buildable Zone for the Resort Villas.
- a. A maximum of 34 "Resort Villas" may be constructed generally in the locations shown on the Site Plan. Resort Villas shall be constructed generally with the architectural style shown on the Approved Plans. Final plans for the Resort Villas as submitted for building permits shall conform to the Approved Plans, subject to adjustments permitted by this Special Use Permit. Walls shown on the Approved Plans may be relocated and may or may not be located on a Resort Villa lot line, except that if a Resort Villa lot line is also a perimeter property line of the Property, the wall will be located such that its exterior edge does not encroach onto the adjacent property. Additional walls not shown on the Approved Plans may be constructed within enclosed private

yards on a Resort Villa lot, provided they do not exceed six feet in Height.

- b. Following initial construction, neither a Resort Villa owner nor the Resort Hotel Owner shall make alternations or additions to the exterior of a Resort Villa, including (i) modification of the design elevation, building footprint, height, building mass or floor area or (ii) the addition of or enclosure of balconies, decks, accessory structures, bay windows, lighting or landscaping, except in compliance with this Special Use Permit. Prior to the initial construction of a Resort Villa, modifications to a Resort Villa location, landscape, lighting, area and elevations may be made subject to the provisions of this Special Use Permit. Following damage or casualty, either a Resort Villa owner or the Resort Hotel Owner may restore such damage to the condition which existed prior to such damage or casualty, provided alterations consistent with then current construction methodology and materials and those made necessary by then current building codes may be made. Any other construction or alteration of a Resort Villa shall require either a major or minor amendment to this Special Use Permit. Any improvement or alteration which satisfies this Special Use Permit may otherwise be constructed and operated.
  - c. Constructed accessory features such as pools, spas, trellis, patio covers, gazebos, fireplaces and firepits may be installed in an enclosed Resort Villa yard, provided they each have a setback of five feet from the enclosed yard wall (as measured from the outermost edge, i.e., fascia, lattice, trim, etc.). No setback is required for water features less than 18” deep as long as no portion of such water feature shall exceed the height of the closest property wall.
  - d. Built-in barbecues are permitted in the enclosed Resort Villa yards only, provided they are not within five feet of a yard wall or within three feet of a front or rear yard property wall, and no portion of any built-in barbecue shall exceed the height of the closest property wall.
34. No garden art, wall mounted or freestanding fountains shall exceed the height of the closest property wall if located within five feet of such wall or eight feet in height if located further than five feet from such wall.
35. A minimum of 33% of the aggregate of all enclosed yard areas within a Resort Villa lot shall be open, planted or pervious.
36. Individual driveway vehicular gates shall not be allowed.
37. Patio structures, gazebos, trellis and other exterior structures are allowed, subject to the following:

- a. The maximum height of all flat patio structures including trellis and gazebos shall be limited to 11 feet from the top of finished grade to the top of the upper-most construction member. Gazebos and secondary structures with a pitch roof that match the architecture of the primary structure shall be limited to 13 feet as measured from the top of finished grade to the upper-most construction member.
  - b. The total area of all such open beamed and roofed accessory structures shall be limited to a maximum of 25% of the total enclosed yard area within a Resort Villa lot.
38. Pools, spas, hot tubs, ponds and fountains are allowed, provided that the aggregate area of such features which are in excess of 18" deep shall not exceed 1,000 square feet.
39. Pool and fountain equipment are allowed, provided that all such equipment must be screened in such a manner so as not to be visible from any lot or common area or adjoining property. All heaters are to be stackless or low-profile in configuration.
40. Freestanding fireplaces or fire pits are allowed, subject to the following:
  - a. Wood burning freestanding exterior fireplaces or fire pits are allowed but are limited to one per Resort Villa lot. Additional freestanding fireplaces are allowed but are restricted to gas burning only.
  - b. Freestanding outdoor fireplace chimneys shall not exceed ten feet in height. Attached fireplace chimneys may be two feet above the top of accessory structure or 14 feet in height total, whichever is less.
  - c. Freestanding fireplaces and fire pits must be set back a minimum of five feet from all Resort perimeter Property lines.
41. Playground equipment, basketball backboards, storage sheds and free-standing flagpoles shall not be permitted.
42. Air conditioners may not be installed on roofs.
43. All exterior lighting shall comply with Town ordinances and shall meet the performance standards in stipulations 66 and 68 of this Special Use Permit.
44. Landscape Planting: The overlying landscape theme within a Resort Villa lot is intended to be an extension of the Resort. Minimum planting requirements are as follows:

- a. One tree per 750 square feet of total enclosed yard area (excluding “paired” side yard areas). The first tree shall be a minimum 36” box size and the remaining trees shall a minimum 24” box size. Total tree requirements shall be rounded up to the next whole number.
  - b. A palm tree is an acceptable substitute for a tree providing it has a minimum of six feet of clean trunk.
  - c. Ten five-gallon shrubs are required for each required tree.
  - d. Six one-gallon ground cover plantings are required for each required tree.
45. Antenna and Satellite Dishes:
- a. Satellite dishes are permitted, provided that they are not located above the roof line. Satellite dishes and antennas greater than 24” in diameter are permitted, provided that they are not mounted on the roof and meet all Town Code requirements including full screening of equipment from view.
  - b. All wiring shall be contained within a structure or underground conduit.
46. Each Resort Villa shall have monitored fire sprinklers in all attic spaces.

**C. USES**

- 47. Temporary tents or pavilions may be erected on the Property in the locations shown on the Approved Plans, provided that such temporary tents or pavilions shall not remain erected for more than 14 consecutive days per event. No tent shall be higher than 24 feet above finished grade or closer to any exterior Property line than the minimum setbacks shown on the approved plans. Any other temporary tent or pavilion shall be approved in accordance with the Town Code or shall be otherwise approved by the Town Manager. Placement of tents shall have no material adverse impact on parking or circulation on site. Maximum tent height shall not exceed 24 feet or violate Exhibit C. Tent setback to Resort property line shall not be less than 40 feet.
- 48. The aggregate amount of Retail Use shall only occur in the Arrival Zone (as depicted on the Site Plan) and shall not exceed 22,000 square feet (including dedicated retail use within the Spa).
- 49. The maximum hours of public operation of the following specific uses/facilities shall be as follows:

- a. Vendor deliveries (other than US Mail or emergencies): 6 am - 7 pm
- b. Pools, spas and jacuzzis (except pools, spas and jacuzzis located in enclosed private yards, which may be used 24 hours/day): 7 am - midnight
- c. Restaurants and other food service facilities: 6 am - 1 am
- d. Bars/lounges: 10 am – 2 am
- e. Banquet facilities, receptions, weddings and socials: 6 am – 2 am
- f. Resort retail: 7 am – 11 pm
- g. Room service: 24 hours/day
- h. Guest reception and guest services: 24 hours/day
- i. Parking facilities: 24 hours/day
- j. The Spa & Fitness facilities: 24 hours/day (outside members limited to 5 am – midnight).
- k. Trash pickup: 7 am – 7 pm

50. Use of Cabana Casitas, Hotel Suites and Resort Villas.

- a. Cabana Casitas. Each owner of a Cabana Casita may occupy it, permit its guest(s) to occupy it, or make it available for rental for transient occupancy uses, residential uses or hospitality uses.
- b. Hotel Suites. Each owner of a Hotel Suite may occupy it or permit its guest(s) to occupy it, or make it available for rental for transient occupancy uses, lodging uses or hospitality uses.
- c. Resort Villas. Each owner of a Resort Villa may occupy it, permit its guest(s) to occupy it, or make it available for rental for transient occupancy uses, residential uses or hospitality uses.

51. Recorded Documents

The following stipulations shall be set forth in certain easements and/or covenants, conditions and restrictions (“CC&R”) or other recorded instruments, to be recorded on the Resort or each part for which such stipulation is germane. Such recordation shall occur at or prior to recordation of the final plat or final map as the case may be. As a condition to approval of the final plat or final map, such recorded instruments shall be approved by the Town Manager.

a. Easements

- (1) Vehicular and Pedestrian Access Easement. An easement to provide vehicular and pedestrian access over designated portions of the Resort Parcel for the benefit of the Resort Villa owners, the Cabana Casita owners and the Hotel Suite owners and other users of their respective units, including access to Lincoln Drive for ingress and egress, subject to rules and regulations adopted by the Hotel Resort Owner, from time to time.
- (2) Utilities. An easement over designated portions of the Resort Parcel for utilities for the benefit of the Resort Villa owners, the Cabana Casita owners and the Hotel Suite owners to the extent utility easements are not located in publicly dedicated rights-of-way.
- (3) Resort Villas Use Easement. An easement to provide access for the Resort Villas owners and other Resort Villa users to certain parking, pool, grounds and other facilities surrounding the Resort Villas, subject to rules and regulations adopted by the Resort Hotel Owner from time to time.
- (4) Parking for Cabana Casitas and Hotel Suites. An easement to provide necessary parking for the Cabana Casitas and Hotel Suites, in common with Hotel users, in designated portions of the Resort Hotel Parcel, subject to rules and regulations adopted by the Resort Hotel Owner from time to time.
- (5) Cross Drainage Easement. An easement to provide for the maintenance of drainage facilities pursuant to the Town approved drainage plan for all of the Resort.
- (6) Easement for the Resort Hotel Owner to Maintain and Repair the Resort Villas, Cabana Casitas and Hotel Suites. An easement to enable the Resort Hotel Owner to fully control the Resort as a whole by giving it a property right to exercise its rights and responsibilities under Section b below.

b. Resort Hotel Owner Maintenance Rights and Responsibilities

- (1) Exterior Yards of Resort Villas. The Resort Hotel Owner will initially improve and thereafter shall be entitled and responsible to maintain or shall cause the maintenance of the portions of the front, side and rear yards of each Resort Villa lot located outside of privacy walls, to ensure consistency of landscaping and maintenance throughout the Resort.

- (2) Maintenance and Repair of Exteriors of Resort Villas and Related Improvements. The Resort Hotel Owner shall be entitled and responsible to maintain or shall cause to be maintained the exteriors of each Resort Villa and related improvements, such as the exterior features of garages, fences, walls and the like, to ensure consistency throughout the Resort.
- (3) Maintenance and Repair of Cabana Casitas and Hotel Suites and Related Improvements. The Resort Hotel Owner shall be entitled and responsible to maintain or shall cause to be maintained all parts of the Cabana Casitas and Hotel Suites and related improvements.
- (4) Town Self-Help Remedy. A covenant will be recorded on the Cabana Casitas, Hotel Suites and Resort Villas providing the Town a right to perform exterior maintenance and repair of those properties and related facilities (i.e., access roads and parking lot two) to the extent maintenance and repair of each such unit is not reasonably maintained and such deficiency is not cured within a specified period of time, following hearing and notice, in addition to any other remedies available at law to the Town. In the event the Town utilizes such remedy, the owners of the affected property will be responsible to repay the Town for its reasonable costs and expenses incurred in performing such work within 30 days after receipt of an invoice and reasonable supporting materials from the Town. If the owner does not pay such amount to the Town within such 30-day period, the Town shall be entitled to file a lien on the owner's Cabana Casita, Hotel Suite or Resort Villa and enforce such lien as provided by Arizona law.
- (5) Rental. Resort Villa, Cabana Casita and Hotel Suite owners may participate in the Resort Hotel Owner's rental program at their option. To the extent they do so, the Resort Hotel Owner or its representatives will not rent a Resort Villa, Cabana Casita or Hotel Suite for more than 30 consecutive days.
- (6) Registration at Front Desk. Each principal occupant of a Resort Villa, Cabana Casita or Hotel Suite shall register with the onsite front desk to be maintained by the Resort Hotel Owner, and shall be required to update that registration upon the occurrence of any material change in occupancy or status (i.e., death, transfer, new credit card).

- (7) Rental by Rental Agents Other than Resort Hotel Owner. Rentals of Resort Villas, Cabana Casitas or Hotel Suites by a rental agent other than the Resort Hotel Owner or its affiliates or agents, are permitted provided, each such agent must be locally based, licensed as required under applicable law, insured and bonded and provide continuous service availability to each owner and/or renter (i.e., available at all times), as confirmed by documents provided to the Resort Hotel Owner.

**D. PARKING & CIRCULATION**

52. All contracts between Resort Hotel Owner and any valet company or other parking company shall include an acknowledgment and agreement that such company shall not park any vehicles on public streets in the Town. Buses and other vehicles may be used to shuttle guests or employees to or from parking areas not located on the Resort, and between the Resort and other destinations (e.g., airport, shopping facilities, golf courses, etc.). Any catering agreement between Resort Hotel Owner and any guests booking events at the Resort shall include an acknowledgement and agreement that vehicles may not park on public streets in the Town. There shall be no valet parking on the streets within the Resort Villa Zone.
53. Unlicensed support vehicles (i.e., golf carts, utility vehicles, etc.) may be used to service the Resort, and to transport and provide service to guests of the Resort and owners of the Resort Units, but shall not be used or parked on any public street.
54. All designated fire lanes shall maintain a vertical clearance of 14 feet above finished grade and a horizontal clearance of 20 feet to allow passage of emergency vehicles and must meet all Department of Transportation standards.
55. At any time the parking demand within the Resort is expected to exceed 500 cars, the approved valet parking plan shall be utilized for hotel guests and others invitees to the Resort. Valet assisted parking may generally park vehicles in accordance with the Valet Parking Plan.
56. Trash service for individual owners in the Resort Villa Zone shall be provided either directly by Resort Hotel Owner or through a single third party vendor. Normal trash service shall only be provided by one vendor for the entire Resort Villa Zone during any period. Incidental removal of trash, debris and landscape material may be handled by an alternative vendor. Trash service trucks shall be restricted to the loop road as designated on A01.

57. A minimum of 610 parking spaces excluding those in the Resort Villa Zone shall be required. The actual number built may be greater if it is contained within the areas designated for parking on the Site Plan.
58. If the Resort (outside the Resort Villa Zone) ceases all business operation for greater than 30 days for purposes other than restoration following a casualty or remodeling, the surface parking area shown on the Site Plan as Lot 2 shall be made available for use by Resort Villa owners or their guests.
59. The northernmost pedestrian gate depicted on Sheet L2 of the Approved Plans may be locked or unlocked as determined by the Resort Hotel Owner. The southernmost pedestrian gate depicted on Sheet L8-b of the Approved Plans shall remain unlocked, except from 10 pm to 8 am.
60. Not more than 75,000 square feet of surface area of the Property shall be covered by non-decorative paving materials including asphalt. Decorative materials such as exposed aggregate, pavers, stamped colored asphalt, concrete of various colors, wood and other decorative hard surface materials may be used in parking areas, roadways, ramps, decks, driveways, parking structures.
61. Within the Resort Villa Zone, no parking shall be permitted in areas shown as shaded on the Site Plan (Sheet A01) other than incidental parking for uses limited to emergency vehicles and moving vans.
62. All streets and drives in the Resort Property are and shall remain private streets. All streets, sidewalks and paved areas constructed shall remain private; provided, that all new streets constructed shall be of adequate width and design to permit the provision of fire and police protection to the Property.
63. Not more than 20% of the vehicular gate or the pedestrian gates controlling access into the Resort Villa Zone shall be opaque.

**E. MANAGEMENT**

64. There shall be at least one person at 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 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). Maintenance of the Resort in general, and all common areas specifically, shall be coordinated through a single unified management entity, which may be the Resort Hotel Owner or its designee.

**F. CELLULAR ANTENNAS**

65. Cellular and other wireless transmission antennas are permitted, provided that they comply with this Special Use Permit and applicable Town ordinances. 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 new 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 Zoning Ordinance Section 1211 or any successor ordinance regarding the conditions and limitations of special use permits. During construction or demolition of structures, existing cellular antennas for cellular providers existing on the Property on the Approval Date may be placed on temporary poles of such design and location as is approved by the Town Manager, provided that (i) the height of the temporary antennas do not exceed the height of the current antennas and (ii) the setback of the temporary antennas from adjacent property meet the less stringent of (x) the current Zoning Ordinance requirements or (y) the existing distance between the antenna and the closest perimeter Property line. As to new cellular providers not existing on the Property on the Approval Date, the Town Manager may authorize such new providers, and their equipment, without the necessity for an amendment to this Special Use Permit or a new Special Use Permit, provided the criteria set forth in the Town Code is met.

#### **G. LIGHTING**

66. If the Town receives a complaint from an off site owner that the light emitting element (i.e., the bulb) within a light fixture is visible from off the Property, Town Manager may inspect the Property and require the Owner to redirect any light source if the light emitting element is visible from outside the Property.
67. The aggregate number of fixtures within the Resort (other than within a Resort Villa) shall not exceed the aggregate numbers shown on Lighting Plan sheet SL1. Fixtures may be relocated within the Resort and specific fixtures shown on the Lighting Plans may be replaced with substantially equivalent fixtures.
68. The Town may inspect and measure the completed lighting installation prior to issuance of the resort certificate of occupancy to ensure the lighting levels are compliant with the table below.

Project illumination shall be measured in the following manner: An area not less than 2500 square feet or an area as determined by the Town Manager shall be used for sampling. Samples are to be taken on spacing

not to exceed a 10-foot grid at the surface plane to produce an average reading for the measurements.

USE AREA	MAX FOOTCANDLES *
Drive Entry/Intersections/Drop Off Areas	5
Interior Roadways	1
Parking Lots	1.6
Pathways	1
Service Areas; trash, loading, etc.	5
Pool Decks	5
Circulation Areas	5
Function Areas	5
Exterior Dining Areas (when in use for dining)	10
Landscaped Areas	5
Guestroom Entries	3
Guestroom Patios	5
Architectural Lighting	5
*Footcandle values are maintained values as defined by the IESNA	

**EXHIBIT A  
TO  
LA POSADA STIPULATIONS**

Legal Description of Property

That certain portion of the North Half of the Southwest Quarter of Section 8, Township 2 North, Range 4 East of the Gila and Salt River Base and Meridian, Town of Paradise Valley, Maricopa County, Arizona, more particularly described as follows:

**Commencing** at the Center of said Section;

Thence S 89°58'18" W along the east-west mid-section line of said section a distance of 658.04 feet to the Northeast Corner of the West Half of the Northeast Quarter of said Southwest Quarter;

Thence S 00°04'19" E along the east line of said West Half a distance of 55.00 feet to a point in the south right of way line of Lincoln Drive, said point being the **Point Of Beginning**;

Thence continuing S 00°04'19" E along said east line a distance of 1264.12 feet to the Southeast Corner of said West Half;

Thence S 89°59'10" W along the south line of said West Half a distance of 658.98 feet to the Southwest Corner of said West Half;

Thence N 00°04'02" W along the west line of said West Half a distance of 659.38 feet to the Southeast Corner of the Northeast Quarter of the Northwest Quarter of said Southwest Quarter;

Thence S 89°59'19" W along the south line of said Northeast Quarter a distance of 618.47 feet to the east right of way line of Tatum Boulevard, said east right of way line being parallel with and 40.00 feet east of the west line of said Northeast Quarter;

Thence N 00°02'41" W along said east right of way line a distance of 609.40 feet to an angle point therein;

Thence N 44°57'49" E 14.14 feet to the south right of way line of Lincoln Drive, said south right of way line being parallel with and 40.00 feet south of said east-west mid-section line;

Thence N 89°58'18" E along said south right of way line a distance of 190.00 feet to an angle point therein;

Thence N 00°02'41" W 7.00 feet;

Thence N 89°58'18" E parallel with and 33.00 feet south of said east-west mid-section line a distance of 418.54 feet to an angle point therein;

Thence S 00°02'18" E 22.00 feet;

Thence N 89°58'18" E parallel with and 55.00 feet south of said east-west mid-section line a distance of 658.58 feet to the **Point Of Beginning**.

Containing 27.981 acres more or less.

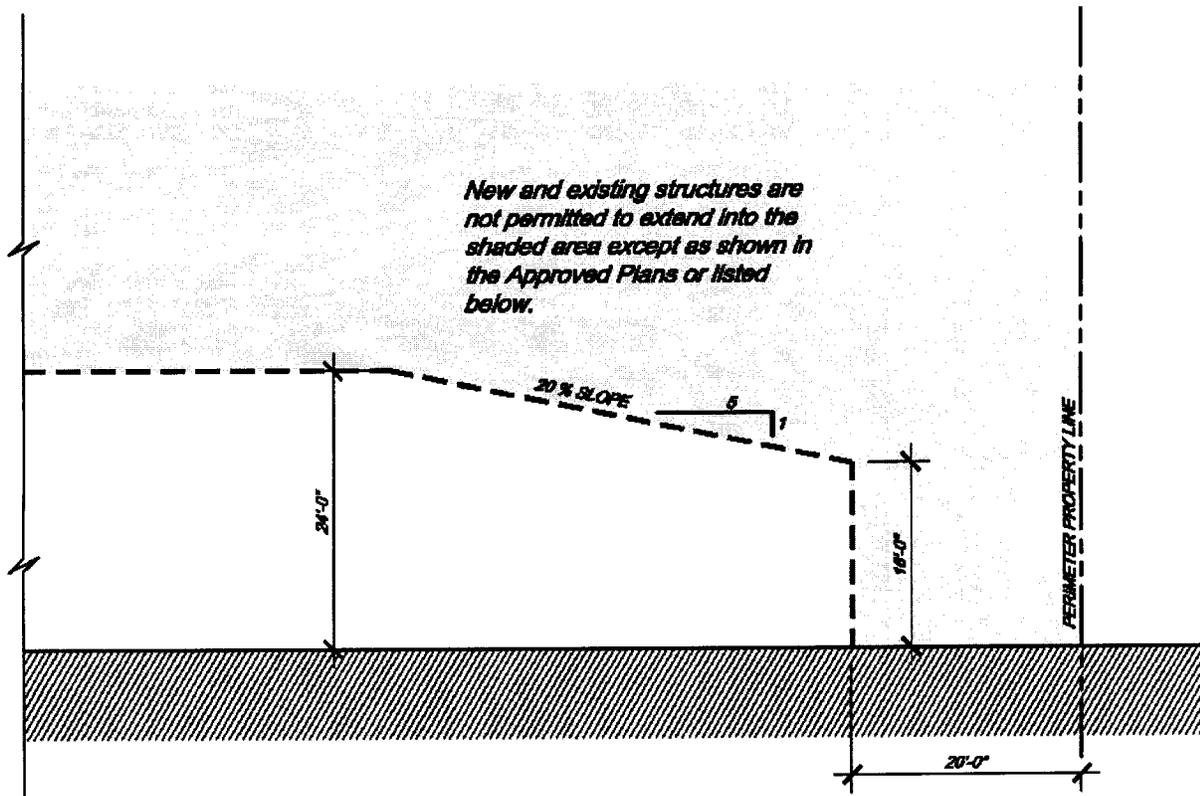
**EXHIBIT B**  
**TO**  
**LA POSADA STIPULATIONS**  
Approved Plans

Sheet No.	Title	Date
“Allen + Philp Architects” prepared the following sheets		
A00	Aerial Photograph	Oct 21-04
A01	Site Plan Informational	Oct. 21-04
A01.1	Tent Locations	Oct 1-04
A02	Site Plan Illustrative	Sep 14-04
A03	Site Plan Data	Nov 1-04
A04	Plaza Buildings Elevations	Oct 21-04
A05	Plaza Buildings Elevations	Oct 21-04
A06	Lodge, Meeting Facilities/Spa Elevations	Oct 8-04
A07	Lodge, Meeting Facilities/Spa Elevations	Oct 8-04
A08	Typical Guestroom Buildings	Sep 14-04
A09	Resort Suite Buildings Elevations	Sep 14-04
A10	Resort Suites Elevations	Sep 14-04
A11	Parking Plans/Gatehouse	Sep 21-04
A12	Material Legend	Sep 14-04
A13	Signage Plan	Sep 14-04
A14	Signage Elevations	Sep 14-04
A15	New Lodge Building Section	Sep 24-04
A16	Building 10 Site Plan	Oct 21-04
“Scheurer Architects, Inc” prepared the following sheets		
RVO.1	Front Street Scene	Sep 14-04
RVO.2	Rear Street Scene	Sep 23-04
RVO.3	Site Study Section	Sep 14-04
RVO.4	Street Scene Rendering	Sep 14-04
RVO.5	Street Scene Rendering	Sep 14-04
RV1.5	Plan 1 Elevations	Sep 14-04
RV1.6	Plan 1 Elevations	Sep 14-04
RV2.4,	Plan 2 Elevations	Sep 14-04
RV2.6	Plan 2 Elevations	Sep 14-04
RV3.6	Plan 3 Elevations	Sep 14-04
RV3.7	Plan 3 Elevations	Sep 14-04

RV4.0	Color and Material Sample Board	Oct 8-04
“e group” prepared the following sheets		
L1	Conceptual Landscape Plan	Sep 14-04
L2	Resort Arrivals	Oct 21-04
L3	Main Pool & Event Plaza	Sep 14-04
L4,	Villa Conceptual Landscape Plan	Sep 14-04
L5	Villa Pool & Rear Yard options	Sep 14-04
L6	Cabanas Casitas Patio	Sep 14-04
L7	Secondary Pools	Sep 14-04
L8-a	Landscape Character Sketches	Sep 14-04
L8-b	Landscape Character Sketches	Oct 21-04
L9	Planting Concept	Sep 14-04
L10	Native & Enhanced Desert	Sep 14-04
L11	Arid Resort Oasis	Sep 14-04
L12	Courtyard Oasis	Sep 14-04
L13	Streetscape, Courtyard & Perimeter Typical Plan	Sep 14-04
L14	Landscape Legends	Sep 14-04
L15	Salvage Plants to Remain	Sep 14-04
L16	Existing Landscape Layout	Sep 14-04
L17	Plant Inventory	Sep 14-04
L18	Plant Inventory	Sep 14-04
L19	Plant Inventory	Sep 14-04
L20.a	Perimeter Landscape Plan @ Lincoln Dr.	Sep 14-04
L20.b,	Perimeter Landscape Plan @ Tatum Blvd.	Sep 14-04
L21	Landscape Sections	Sep 14-04
L22,	Wall Layout Plan	Sep 14-04
L23	Proposed & Existing Landscape Plan	Sep 14-04
L24	Temporary Sales & Marketing Site Exhibit	Sep 14-04
L25	Villas Guest Parking Analysis	Sep 23-04
“Creative Designs in Lighting, Inc.” prepared the following sheets		
SLO	Site Plan Informational, Exterior Lighting	Sep 9-04
SL1	Site Plan Informational, Exterior Lighting	Sep 13-04
SL2	Site Plan Informational, Exterior Lighting	Sep 13-04
SL3,	Site Plan Informational, Exterior Lighting	Sep 13-04
SL4,	Site Plan Informational, Exterior Lighting	Sep 13-04
SL5	Site Plan Informational, Exterior Lighting	Sep 13-04
SL6	Site Plan Informational, Exterior Lighting	Sep 13-04

SL7	Site Plan Informational, Exterior Lighting	Sep 13-04
SL8	Site Plan Informational, Exterior Lighting	Sep 13-04
SL9,	Site Plan Informational, Exterior Lighting	Sep 13-04
SL10	Site Plan Informational, Exterior Lighting	Sep 13-04
SL11,	Site Plan Informational, Exterior Lighting	Sep 13-04
SL12	Site Plan Informational, Exterior Lighting	Sep 13-04
SL13,	Site Plan Informational, Exterior Lighting	Sep 13-04
SL14	Site Plan Informational, Exterior Lighting	Sep 13-04
SL15	Site Plan Informational, Exterior Lighting	Sep 13-04
SL16	Site Plan Informational, Exterior Lighting	Sep 13-04
(none)	Lighting Fixture Cut Sheets, 10 sheets	No date
“ <u>Civtech, Inc.</u> ” prepared the following sheets		
T1	Valet Plan Surface Parking	Sep 14-04
T2	Valet Plan Garage Parking	Sep 14-04

**EXHIBIT C  
TO  
LA POSADA STIPULATIONS  
Maximum Height of Buildings**



Below are listed exceptions to the restrictions depicted above:

Plaza Buildings*		Sheet #
1. Existing Tower	42'-0"	A04
2. Plaza Buildings		
Buildings A, C, D	32'0"	A04
Building B	34'0"	A04
Lodge Building*		
3. Lodge Building	36'-0"	A06
4. Tower at Spa Entry	44'-0"	A06
w/ Spire	51'-0"	A06
5. Tower at Spa Rotunda	38'-6"	A06
6. Elevator/Stair tower at east end	36'-0"	A06
Cabana Casitas		
7. Elevator / Chimney Tower	31'-0"	A10
		Three (3) separate locations

Note: Chimneys are excluded from the height restrictions, but will comply with Town Code.

\* Any existing buildings may remain at existing heights.

OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL  
20050434679 04/06/2005 10:19  
ORD547A-8-1-1--N  
ELECTRONIC RECORDING

When recorded, return to:  
Paradise Valley Town Attorney  
6401 East Lincoln Drive  
Paradise Valley, Arizona 85253

**MINOR AMENDMENT TO ORDINANCE NUMBER 547**

**WHEREAS**, the Town of Paradise Valley Town Council adopted Ordinance Number 547 approving a Special Use Permit for the La Posada Resort (now named Montelucia), which Ordinance was recorded on November 22, 2004 as document number 20041368701, official records of the Maricopa County Recorder.

**WHEREAS**, the Town of Paradise Valley Planning Commission considered and approved a minor amendment to the Special Use Permit at its meeting of March 1, 2005.

**WHEREAS**, the Special Use Permit and this minor amendment relate to a parcel of land described on Exhibit A.

**NOW, THEREFORE**, this document sets forth the modifications to the Special Use Permit, specifically to Exhibit B to Ordinance 547.

1. The third paragraph of the Project Description on page 1 of Exhibit B is amended by changing the reference to "Forty-four (44) Hotel Suites" to "Sixty-six (66) Hotel Suites."
2. The definition of "Hotel Rooms" in Section II is amended by adding the text shown in **BOLD CAPS**, and deleting the text shown by ~~strikeout~~,

"Hotel Rooms" means the ~~152-148-158 (such number may vary within this range subject to stipulation 25 hereof)~~ new or remodeled Resort Units shown on the Site Plan which are neither "Hotel Suites," "Cabana Casitas" nor "Resort Villas" and which are to be owned by the Resort Hotel Owner in common with the remainder of the Resort (excluding the Hotel Suites, Cabana Casitas and Resort Villas).

3. The definition of "Hotel Suites" in Section II is amended by adding the text shown in **BOLD CAPS**, and deleting the text shown by ~~strikeout~~,

"Hotel Suites" means the ~~44-66 (such number may vary within this range subject to stipulation 25 hereof)~~ new Resort Units identified as "Hotel Suites" on the Site Plan.  
**ONE OR MORE SUBDIVISION MAPS MAY BE USED IN CONJUNCTION WITH THE 66 HOTEL SUITES.**

4. The definition of "Site Plan" in Section II is amended by adding the text shown in **BOLD CAPS**, and deleting the text shown by ~~strikeout~~,

"Site Plan" means that certain Site Plan (Sheet A01) dated ~~September 14, 2004~~ **FEBRUARY 21, 2005** prepared by Allen & Philp Architects.

5. Paragraph 25 is amended by adding the text shown in **BOLD CAPS**, and deleting the text shown by ~~strikeout~~,

The precise location (i.e., footprint) of any building or other structure (other than the Resort Villas), or any portion thereof, may vary by up to ten feet in any direction from the location shown on the approved Site Plan, provided that (i) the minimum perimeter setbacks depicted on the Site Plan shall be maintained, (ii) the new location satisfies criteria depicted on Exhibit C, and (iii) prior approval from the Town Manager is granted. The precise location (i.e. footprint) of any building or other structure, or any portion thereof, in the Resort Villas Zone may vary by up to five feet in any direction from the location shown on the approved Site Plan, provided that (i) the minimum building setbacks as depicted on the Site Plan shall be maintained, (ii) a separation of ten feet between the various Resort Villas shall be maintained, (iii) the new location satisfies Exhibit C, and (iv) prior approval from the Town Manager is granted. The square footage of a particular building or structure as set forth on Sheet A03 may be greater or less than what is shown on Sheet A03, subject to the following restrictions: (i) there shall be no increase in the total square footage of the Resort Villas and (ii) the Project Total Square Footage for all buildings shall not exceed 427, 650 as set forth on Sheet A03. ~~Building 10 on the Site Plan may be replaced with the new building as shown on Sheet A16 of the Approved Plans which shall be substantially similar to Building 6 shown on Sheet A10 of the Approved Plans. If Building 10 is so replaced, then the number of Hotel Suites will increase to 66 and the number of Hotel Rooms will decrease to 148. The sale of Hotel Suites in the new building 10 to third parties shall be subject to the stipulations applicable to Hotel Suites.~~

6. Paragraph 29 is amended by adding the text shown in **BOLD CAPS**, and deleting the text shown by ~~strikeout~~,

With respect to all Resort Units other than the Resort Villas, the number of such Resort Units may be increased by not more than ~~nine~~ **FIVE** units from the number shown on the Approved Plans, provided that the provisions of stipulations 24 and 26 are met.

7. Paragraph 67 is amended by adding the text shown in **BOLD CAPS**, and deleting the text shown by ~~strikeout~~,

The aggregate number of fixtures within the Resort (other than within a Resort Villa) shall not exceed the aggregate numbers shown on Lighting Plan sheet ~~SL1~~ **SL0**. Fixtures may be relocated within the Resort and specific fixtures shown on the Lighting Plans may be replaced with substantially equivalent fixtures.

8. Exhibit B to the Special Use Permit listing the Approved Plans is amended in accordance with Exhibit B to Minor Amendment to La Posada Stipulations attached hereto.

9. Sheet A01.1 and A09 will be revised to match the Site Plan (Sheet A01), as approved by staff.

 4/5/05  
\_\_\_\_\_  
Lou Werner, Chairman  
Town of Paradise Valley Planning Commission

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**EXHIBIT A  
TO  
LA POSADA STIPULATIONS**

Legal Description of Property

That certain portion of the North Half of the Southwest Quarter of Section 8, Township 2 North, Range 4 East of the Gila and Salt River Base and Meridian, Town of Paradise Valley, Maricopa County, Arizona, more particularly described as follows:

**Commencing** at the Center of said Section;

Thence S 89°58'18" W along the east-west mid-section line of said section a distance of 658.04 feet to the Northeast Corner of the West Half of the Northeast Quarter of said Southwest Quarter;

Thence S 00°04'19" E along the east line of said West Half a distance of 55.00 feet to a point in the south right of way line of Lincoln Drive, said point being the **Point Of Beginning**;

Thence continuing S 00°04'19" E along said east line a distance of 1264.12 feet to the Southeast Corner of said West Half;

Thence S 89°59'10" W along the south line of said West Half a distance of 658.98 feet to the Southwest Corner of said West Half;

Thence N 00°04'02" W along the west line of said West Half a distance of 659.38 feet to the Southeast Corner of the Northeast Quarter of the Northwest Quarter of said Southwest Quarter;

Thence S 89°59'19" W along the south line of said Northeast Quarter a distance of 618.47 feet to the east right of way line of Tatum Boulevard, said east right of way line being parallel with and 40.00 feet east of the west line of said Northeast Quarter;

Thence N 00°02'41" W along said east right of way line a distance of 609.40 feet to an angle point therein;

Thence N 44°57'49" E 14.14 feet to the south right of way line of Lincoln Drive, said south right of way line being parallel with and 40.00 feet south of said east-west mid-section line;

Thence N 89°58'18" E along said south right of way line a distance of 190.00 feet to an angle point therein;

Thence N 00°02'41" W 7.00 feet;

Thence N 89°58'18" E parallel with and 33.00 feet south of said east-west mid-section line a distance of 418.54 feet to an angle point therein;

Thence S 00°02'18" E 22.00 feet;

Thence N 89°58'18" E parallel with and 55.00 feet south of said east-west mid-section line a distance of 658.58 feet to the **Point Of Beginning**.

Containing 27.981 acres more or less.

**EXHIBIT B**  
**TO**  
**MINOR AMENDMENT TO LA POSADA STIPULATIONS**  
Approved Plans

Sheet No.	Title	Date
“Allen + Philp Architects” prepared the following sheets		
A00	Aerial Photograph	Oct 21-04
A01	Site Plan Informational	<del>Oct. 21-04</del> <b>FEB 21-05</b>
A01.1	Tent Locations	Oct 1-04
A02	Site Plan Illustrative	Sep 14-04
A03	Site Plan Data	<del>Nov 1-04</del> <b>FEB 7-05</b>
A04	Plaza Buildings Elevations	Oct 21-04
A05	Plaza Buildings Elevations	Oct 21-04
A06	Lodge, Meeting Facilities/Spa Elevations	Oct 8-04
A07	Lodge, Meeting Facilities/Spa Elevations	Oct 8-04
A08	Typical Guestroom Buildings	Sep 14-04
A09	Resort Suite Buildings Elevations	Sep 14-04
A10	Resort Suites Elevations	<del>Sep 14-04</del> <b>FEB 7-05</b>
A11	Parking Plans/Gatehouse	<del>Sep 21-04</del> <b>FEB 7-05</b>
A12	Material Legend	Sep 14-04
A13	Signage Plan	Sep 14-04
A14	Signage Elevations	Sep 14-04
A15	New Lodge Building Section	Sep 24-04
A16	Building 10 Site Plan	Oct 21-04
A17	<b>SITE SECTIONS</b>	<b>FEB 15-05</b>
A18	<b>CAMELBACK SUITE BASEMENT</b>	<b>FEB 7-05</b>
“Scheurer Architects, Inc” prepared the following sheets		
RVO.1	Front Street Scene	Sep 14-04
RVO.2	Rear Street Scene	Sep 23-04
RVO.3	Site Study Section	Sep 14-04
RVO.4	Street Scene Rendering	Sep 14-04
RVO.5	Street Scene Rendering	Sep 14-04
RV1.5	Plan 1 Elevations	Sep 14-04
RV1.6	Plan 1 Elevations	Sep 14-04

RV2.4,	Plan 2 Elevations	Sep 14-04
RV2.6	Plan 2 Elevations	Sep 14-04
RV3.6	Plan 3 Elevations	Sep 14-04
RV3.7	Plan 3 Elevations	Sep 14-04
RV4.0	Color and Material Sample Board	Oct 8-04
“e group” prepared the following sheets		
L1	Conceptual Landscape Plan	Sep 14-04
L2	Resort Arrivals	Oct 21-04 <b>FEB 12-05</b>
<b>L2-b</b>	<b>ENTRY DRIVE AND SOUTH PARKING</b>	<b>FEB 21-05</b>
L3	Main Pool & Event Plaza	Sep 14-04
<b>L3-b</b>	<b>CULVERT BOX STUDY – INLET</b>	<b>FEB 21-05</b>
<b>L3-c</b>	<b>CULVERT BOX STUDY – OUTLET</b>	<b>FEB 21-05</b>
L4	Villa Conceptual Landscape Plan	Sep 14-04
L5	Villa Pool & Rear Yard options	Sep 14-04
L6	Cabanas Casitas Patio	Sep 14-04
L7	Secondary Pools	Sep 14-04
L8-a	Landscape Character Sketches	Sep 14-04
L8-b	Landscape Character Sketches	Oct 21-04
L9	Planting Concept	Sep 14-04
L10	Native & Enhanced Desert	Sep 14-04
L11	Arid Resort Oasis	Sep 14-04
L12	Courtyard Oasis	Sep 14-04
L13	Streetscape, Courtyard & Perimeter Typical Plan	Sep 14-04
L14	Landscape Legends	Sep 14-04
L15	Salvage Plants to Remain	Sep 14-04
L16	Existing Landscape Layout	Sep 14-04
L17	Plant Inventory	Sep 14-04
L18	Plant Inventory	Sep 14-04
L19	Plant Inventory	Sep 14-04
L20.a	Perimeter Landscape Plan @ Lincoln Dr.	Sep 14-04
L20.b,	Perimeter Landscape Plan @ Tatum Blvd.	Sep 14-04
L21	Landscape Sections	Sep 14-04
L22,	Wall Layout Plan	Sep 14-04
L23	Proposed & Existing Landscape Plan	Sep 14-04
L24	Temporary Sales & Marketing Site Exhibit	Sep 14-04
L25	Villas Guest Parking Analysis	Sep 23-04
“Creative Designs in Lighting, Inc.” prepared the following sheets		
SLO	Site Plan Informational, Exterior Lighting	Sep 9-04

SL1	Site Plan Informational, Exterior Lighting	Sep 13-04
SL2	Site Plan Informational, Exterior Lighting	Sep 13-04
SL3,	Site Plan Informational, Exterior Lighting	Sep 13-04
SL4,	Site Plan Informational, Exterior Lighting	Sep 13-04
SL5	Site Plan Informational, Exterior Lighting	Sep 13-04
SL6	Site Plan Informational, Exterior Lighting	Sep 13-04
SL7	Site Plan Informational, Exterior Lighting	Sep 13-04
SL8	Site Plan Informational, Exterior Lighting	Sep 13-04
SL9,	Site Plan Informational, Exterior Lighting	Sep 13-04
SL10	Site Plan Informational, Exterior Lighting	Sep 13-04
SL11,	Site Plan Informational, Exterior Lighting	Sep 13-04
SL12	Site Plan Informational, Exterior Lighting	Sep 13-04
SL13,	Site Plan Informational, Exterior Lighting	Sep 13-04
SL14	Site Plan Informational, Exterior Lighting	Sep 13-04
SL15	Site Plan Informational, Exterior Lighting	Sep 13-04
SL16	Site Plan Informational, Exterior Lighting	Sep 13-04
(none)	Lighting Fixture Cut Sheets, 10 sheets	No date
“Civtech, Inc.” prepared the following sheets		
T1	Valet Plan Surface Parking	Sep 14-04
T2	Valet Plan Garage Parking	Sep 14-04