



Memorandum

TO: Planning Commission

FROM: Molly Hood, AICP, Senior Planner
Eva Cutro, AICP, Community Development Director

DATE: July 31, 2012

SUBJECT: Work/Study Session – Mountain Shadows Preliminary Plat

BACKGROUND:

Request:

The applicant, MTS Land LLC, is requesting approval of a preliminary plat for a 46-lot subdivision named 'Mountain Shadows'. The Town is processing the preliminary plat application concurrently with a Special Use Permit application (SUP-12-5) which was reactivated and revised on May 15, 2012 for the development of the 68.48 acre property with a resort hotel, resort retail, golf course modifications and resort residential homes. The preliminary plat encompasses 11.57 acres on the east side of 56th Street.

As of this date, the preliminary plat is a conceptual plan and only after the SUP is approved may the applicant prepare the official preliminary plat.

General Plan:

The subject property is shown as Special Use Permit – Resort on the Town's General Plan Land Use Map and is part of the 56th Street/Lincoln Development Area. A few of the applicable General Plan Goals and Policies are discussed below.

General Plan Land Use Policy LU 2.1.1.2 and Community Character & Housing Policies CC&H 3.2.1.1 & 3.2.1.2 allow Special Use Permit resort properties to have lots smaller than the Town's standard minimum one-acre size.

General Plan Land Use Goal LU 2.1.2 is "to encourage the continued revitalization and improvement of the Town's Special Use Permit properties while protecting the adjacent residential neighborhoods." The Policies under this goal encourage revitalization, compatibility with adjacent land uses, ongoing maintenance, and context-appropriate and responsive building design and site planning.

General Plan Land Use Goal LU 2.13 is "to promote development in the Town that is in harmony with the natural and built environment at both the community and neighborhood levels" and includes policies regarding visual openness, conservation via appropriate design, minimizing construction disturbances, landscaping and attractive fence/wall designs.

Development Area Policy DA 2.2.3.4 is specific to the subject property and states "Within the 56th Street and Lincoln Drive Development Area, the Town should encourage context appropriate resort development that offers resort amenities to existing Mountain Shadows East

and West residential communities and provides neighborhood-oriented commercial services that do not adversely affect adjacent residential communities.”

Zoning: The applicant has submitted a Special Use Permit application to redevelop the entire property with resort and resort residential uses. Once approved, the Special Use Permit will establish many of the development standards for the proposed subdivision including building heights, setbacks, lot sizes, etc. The SUP will also address the private roadway, the guard house, and the guard gates. The applicant will finalize the preliminary plat design once the SUP is approved.

Statement of Direction:

In accordance with Section 1102.3 of the Zoning Ordinance, the Town Council approved a Statement of Direction for the Mountain Shadows Special Use Permit application on June 28, 2012. A Statement of Direction provides general guidelines or project parameters to guide the project through the Planning Commission and Town Council review process. Section E of the Statement of Direction (Attached) addresses the resort-residential development on the east side of 56th Street including the maximum number of lots, lot size, building setbacks and heights. More specifically, the Statement of Direction states the residential development standards shall include, but are not limited to:

- Maximum 46 lots
- Mean Average Lot Size of 7,500 net square feet
- Minimum Floor Area – 2,000 square feet
- Average lot width 60’
- Maximum 24’ building height – mix of one and two stories.

Existing Site improvements:

The property is occupied by several old resort buildings and associated resort improvements. The existing improvements will be demolished prior the development of the subdivision.

ENFORCEMENT:

The Town’s Code Enforcement Officer conducts monthly inspections of the subject property and reports there are no current zoning violations.

FACTS/DISCUSSION:

Access: The subdivision will have access onto Lincoln Drive and 56th Street. A guard house (part of SUP) will be located north of Lot 46 as illustrated on the applicant’s Conceptual Landscape Sketch (attached). Vehicular access gates (part of SUP) will span across a 30’ wide private drive (Tract A) that loops through the subdivision. Vehicles may only enter the subdivision via the eastern drive but may exit via either the eastern or western drive. It should be noted that the Town’s standard private roadway width is 50’.

Lot Configuration:

The proposed preliminary plat shows 46 lots - the maximum number of lots listed in the Statement of Direction – and four tracts (A thru D). Tract A is a 30’ wide private roadway and an easement for utilities, drainage, service and emergency access. Tracts B, C, and D are open space/landscape tracts.

The 46 lots meet the parameters given in the Statement of Direction. The mean average lot size of 7,500 square feet and the average lot width of 60’. Because the Statement of Direction allows

for averages, not all lots are 7,500 square feet. Lots 32 and 33 are larger, therefore other lots are smaller than 7500 square feet. Also, lots 28-46 have an open space easement that takes up a significant portion of their lot size. Staff would encourage the Commission to explore whether the open space easement shall be dedicated (a new Tract E); however, this would result in lots 28-46 being reduced in size and the average lot size may no longer meet 7,500 square feet.

Floor Area Distribution:

Most plats the Commission reviews are subject to the Town's development standards including a maximum 25% floor area ratio (except R-10 which has none). Likewise, the Town's Resort SUP guidelines call for a maximum 25% lot coverage. In this particular case, the Statement of Direction issued by the Council also calls for a maximum 25% floor area ratio for the entire 68.48 acre project. However, the Statement of Direction also states that individual lots within the overall 68.48 acres shall not be limited by the 25% floor area ratio. Thus, the Commission may wish to explore the proposed square footage of the homes to assure the density is not excessive, and allows for the necessary square footage to develop the west side (without a need to increase the total square footage for the 68.48 acre site). Planning staff would encourage the Commission to consider a limit on total square footage for the east side.

Utilities:

The preliminary plat identifies Tract A as an easement for utilities but it does not include the required 6 and 8-foot public utility easements along the perimeter of the lots in accordance with Section 6-3-3 of the Town Code. Utility easements should be added along the sides of all lots and, depending on the approved side-yard building setback width, should either be 5' or 6' in width. Eight (8) foot utility easements should be provided along the rear of each lot in accordance with Town Code.

The following utilities will be available to each lot.

- 1) Electric: The subject site is located within the APS service area and all utilities are underground.
- 2) Water: Water for the subdivision will be provided by the Epcor Water Company. An assured water supply application is in progress. A new 8" water line will serve the subdivision.
- 3) Sewer: The subdivision will tie into the City of Phoenix sewer. A new 8" sewer line will serve the subdivision.

Drainage:

Each lot will require an individual engineering site/grading and drainage plan with each building permit application submittal. On-lot retention will be required with the development of each lot.

Landscaping:

Per the Statement of Direction, the Town Manager or his designee shall review and approve the interior landscape plan for the project. The Commission shall review and discuss the landscaping along Lincoln Drive and 56th Street as part of the SUP and make a recommendation to the Town Council.

Fire Protection Issues:

The preliminary plat shows several new fire hydrants within the subdivision. However, the fire hydrants should be located within a utility easement. The proposed vehicular gates will be

required to have Knox switches for emergency access. Lastly, the new homes and structures that will be constructed as a result of this subdivision will have fire sprinklers in accordance with the Town Fire Code.

PLANNING COMMISSION REVIEW:

The Mountain Shadows Preliminary Plat will not be scheduled for Planning Commission action until after the Special Use Permit is approved.

DOCUMENTATION ATTACHED

Preliminary Plat Application

SUP Statement of Direction approved June 28, 2012

Conceptual Landscape Sketch

Mountain Shadows Preliminary Plat, Sheets 1 & 2, prepared by Fleet Fisher Engineering, Inc., dated July 2012.

JUN 25 2012

TOWN OF PARADISE VALLEY
APPLICATION FOR PRELIMINARY PLAT

PLEASE MARK THE APPROPRIATE BOX FOR APPLICATION.

PARCEL NO.: 169 - 43 - 004C & 006 DATE: JULY 25, 2012
(County Tax Assessor Number)

NAME OF SUBDIVISION: MOUNTAIN SHADOWS

ADDRESS OR LOCATION OF PROPERTY: S.E.C. 56TH STREET and LINCOLN

OWNER: MTS LAND, L.L.C. Representative
(RICK CARPINELLI)
NAME
18201 VON KARMAN, IRVINE, CA. 92612 (602) 571-6795 (CELL)
ADDRESS PHONE #

AUTHORIZED AGENT: FLEET. FISHER ENGINEERING (FRED FLEET)
NAME
4250 E. CAMELBACK # 410K, PHX. AZ. 85018
ADDRESS
(602) 264-3335 (602) 840-9368
PHONE # FAX #

FRED E. FLEET
SIGNATURE OF REPRESENTATIVE

PF-12-1

APPLICATION FOR PRELIMINARY PLAT

(REQUIRED)

PLEASE PROVIDE A NARRATIVE DESCRIPTION OF THE PROPOSAL. YOU MAY USE A SEPARATE 8 1/2" BY 11" SHEET IF NECESSARY.

A SINGLE FAMILY SUBDIVISION TO PROVIDE 46 RESORT RESIDENTIAL LOTS WITHIN THE MOUNTAIN SHADOWS RESORT SPECIAL USE PERMIT AREA. THE ALLOWED NUMBER OF LOTS, LOT SIZES AND SETBACKS WILL BE AS PER THE S.U.P.. THE PRIVATE DRIVES, GUARD HOUSE AND GATES WILL BE APPROVED AS PART OF THE S.U.P.. MOUNTAIN SHADOWS RESORT WILL MAINTAIN THE PRIVATE DRIVES, LANDSCAPED TRACTS OPEN SPACE EASEMENTS, COMMON WALLS AND LANDSCAPED AREAS OUTSIDE WALLS.

PLAN STATISTICS (REQUIRED)

TOTAL AREA 504,114.4 SF (11.57AC.)
NUMBER OF LOTS 46 LOTS

CONCURRENT APPLICATIONS, IF ANY:

GUARD GATES (YES) RESORT SUP NO
PRIVATE ROADS (YES) RESORT SUP NO
ROADWAY VACATION YES NO

*****FOR OFFICE USE ONLY*****
PRE APPLICATION CONFERENCE WITH STAFF DATE:
APPLICATION SUBMITTED ON:
APPLICATION FEE IN THE AMOUNT OF \$ DATE:
RECEIPT NUMBER RECEIVED BY:
APPLICATION FILE NUMBER

**SUP-12-5
Mountain Shadows Resort**

**-Statement of Direction -
June 28, 2012**

On May 15, 2012, the applicant reactivated and revised their Special Use Permit application to allow for the development of a resort hotel, resort retail, golf course modifications and resort residential homes.

Section 1102.3 of the Town's Zoning Ordinance states the Town Council must issue a Statement of Direction (SOD) for the Special Use Permit application within 45 days of the first staff presentation. In this case, the Statement of Direction must be issued on or before July 6, 2012.

The Statement of Direction is not a final decision of the Town Council and does not create any vested rights to the approval of a Special Use Permit (SUP). Any applicant for a Special Use Permit shall not rely upon the matters addressed in the Statement of Direction being the same as those that may be part of an approved Special Use Permit.

Therefore, the Town Council issues the following Statement of Direction for SUP-12-5, Mountain Shadows Resort:

1. The General Plan encourages revitalization and improvement of existing resorts within the Town of Paradise Valley;
2. The Mountain Shadows property does not presently have a Special Use Permit. In addition, the Town Council desires to adopt a Special Use Permit which relies on Sheets 2, 2.1, 3, 4, 5, 5.1, 7, and 10 of the applicant's submittal. The Town Council finds that the proposed resort concept specified in the documentation submitted by the applicant is acceptable and does not need further study by the Planning Commission unless specifically requested in this SOD.
3. THE TOWN COUNCIL FINDS THE FOLLOWING CONDITIONS ACCEPTABLE:
 - A. Maximum floor area (and floor area ratio):
 - The floor area ratio shall not be more than 25% and shall be computed using the total lot area of 68.48 acres which includes the golf course;
 - Any increase in the amount of floor area above 25% shall constitute an amendment to the Mountain Shadows Special Use Permit in accordance with Article XI of the Town Zoning Ordinance;

Statement of Direction

SUP-12-5

DATE June 28, 2012

Page 2 of 9

- **Total Floor Area** shall be defined as the area under roof added to the floor area of any second and third story. The total floor area also includes any residential courtyard areas (as defined in Article XXIV of the Town Zoning Ordinance) in Area E (east of 56th street); the solid portion(s) of trellises and/or open weave roofs, and all area under roof in accessory buildings such as gazebos, ramadas and other accessory buildings. The total floor area excludes the floor area of any fully subterranean portions of a building, courtyard areas (for any area west of 56th Street), and overhangs not over useable exterior spaces (as illustrated on sheet 2.1 of the applicant's packet). Any proposal beyond that shall require an amendment to the SUP:
 - **Covered Parking Structures with Solar Panels:**
 - Any parking structure/parking garage that is more than six feet above ground shall be included in the floor area ratio calculation;
 - **Courtyard Areas:**
 - Any residential courtyard areas (as defined in Article XXIV of the Town Zoning Ordinance) in Area E (east of 56th street) shall be included in the floor area ratio. However, courtyard areas (for any area west of 56th Street) shall be excluded from the floor area ratio calculation;
 - **Lot Area** shall be defined as the area bounded by the recorded property description of a lot, excluding any dedicated right of way, street or alley, and excluding any private road for which a Special Use Permit has been granted (68.48 acres). Individual lots within the overall 68.48 acres shall not be limited by the 25% floor area ratio as to that particular lot;
 - **Developable Area** shall be defined as areas A, B, C, E, F, and G (as shown on Sheet 2 of applicant's submittal) Area D may be improved in accordance with note 4 on Sheet 5.1;
- B. Maximum building heights (including Open Space Criteria and number of stories) shall conform to the SUP guidelines except as set forth on sheets 5 and 5.1:**
- **36' Height and Third Story Elements**
 - The Planning Commission shall review any proposed third story buildings or structures exceeding 28 feet in height ("Tall Structures"). The Commission shall encourage large setbacks from Lincoln Drive at least 120 feet net of the Lincoln Drive roadway easement areas (and 56th Street) and the establishment of appropriate view corridors for Tall Structures. Applicant shall prepare a site plan showing the locations of

Statement of Direction

SUP-12-5

DATE June 28, 2012

Page 3 of 9

Tall Structures which shall be presented to the Commission during its review of the SUP application. Any site plan for the Tall Structures that is adopted in conjunction with the SUP shall limit the locations for all Tall Structures on the site. Any change in the location of a Tall Structures after the effective date of the SUP shall be subject to review and approval by the Commission at a duly noticed public meeting; said review and approval by the Planning Commission to be at the complete discretion of the Commission;

- **Open Space Criteria – South Part of Area C**
 - The Open Space Criteria shall be measured at the north side of Mountain Shadows West (MTS) Drive;
- **Open Space Criteria – West side of 56th Street**
 - All buildings shall comply with the Open Space Criteria and shall maintain a minimum setback of 40 feet;
- **No new two-story element shall be closer than 50' to an existing one-story residence existing at the date the SUP is granted (measured between exterior walls) ;**
- **The maximum height and number of stories shall comply with sheet 5 and with the following:**
 - **Areas A, B, and C – Maximum 3 story up to 36 feet tall, except for a maximum 2 story up to 28 feet tall (for structures with private attached garages);**
 - **Area E – Maximum 2 story up to 24 feet tall; and**
 - **Area F – Maximum 1 story up to 24 feet tall;**
 - **Total third-story and 36 foot height square footage shall not exceed 120,000 square feet;**
- **Height measurements shall be taken from the original natural grade as set forth on Sheet 4. Since the original natural grade has been established by the Town Engineer and applicant's engineer, the Town Council finds that the original natural grade as submitted is acceptable. If finished grade is not restored back to original natural grade, the maximum height shall be measured from the mid-point equidistant from the high point and low point of the Original Natural Grade or un-restored or existing grade, whichever is lower immediately adjacent to such building. (see note 3 of Sheet 4);**
- **Mechanical equipment and mechanical equipment screens shall be included in the total height of any structure they are attached to;**

C. Minimum setbacks:

▪ **Lincoln Drive Exception:**

- A total of 150 lineal feet of building frontage for retail uses located on the west side of 56th Street adjoining Lincoln Drive, may be allowed at a minimum setback of 40 feet from the property line;
- The guard house east of 56th Street adjoining Lincoln Drive may be allowed at a minimum setback of 25 feet from the property line but it will be sent to the Planning Commission for neighborhood input. The Planning Commission may modify and establish the development standards based upon public input, the need for a mail drop, and guard house design;

▪ **Maintenance Facility**

- The Town Council accepts the development standards for the maintenance facility but will send to the Planning Commission for neighborhood input. The Planning Commission may modify and establish the development standards based upon public input;

▪ **Common Use Pools**

- The Town Council accepts the development standards the common use pools but will send to the Planning Commission for neighborhood input. The Planning Commission may modify and establish the development standards based upon public input;

▪ **Area D – Accessory Structures**

- Existing structures may be reconstructed in their current locations. The Town Council accepts the general location and height of the clubhouse but will send to the Planning Commission for neighborhood input. Any additional new structures within the 60 foot setback or above 16 feet height shall require an amendment to the Special Use Permit;

▪ **West Side Perimeter Walls & Fences**

- The Planning Commission shall review the perimeter fence walls adjoining Lincoln Drive. The Planning Commission shall examine straight and meandering walls, however, the Town Councils accepts that a meandering wall may encroach into the right-of-way easement;

Statement of Direction

SUP-12-5

DATE June 28, 2012

Page 5 of 9

- The Planning Commission and Consultant shall review and establish development standards for any perimeter fence walls along 56th Street;
 - The perimeter fence walls along McDonald Drive shall comply with the development standards outlined on Sheet 5.1 of the applicant submittal. The fence may have a 0 foot setback with no infringement on the golf course;
- No structures shall be placed in a right-of-way easement except approved monument signs;
- D. Minimum key count for the resort:
- Shall be at least 100 hotel rooms to be located in Area A, Area B, or both (see Sheet 2);
 - Rental of resort residential units (as shown in Areas "A, B & C") shall be addressed in the Development Agreement;
- E. Golf course and practice range:
- The area of the golf course as shown on Sheet 10 is acceptable;
 - Detailed plans regarding the improvements shall be submitted for Town Manager review and approval;
- F. Parking Structure(s)
- Detailed plans regarding the parking structure(s) will be submitted at a later date to be approved by the Town Manager or his designee. If any portion of the parking structure/parking garage is more than six feet above ground, it shall be included in the floor area ratio calculation;
- G. Golf cart storage
- Golf cart storage shall be either underground or in a partially subterranean building that would be completely shielded from view by the wall proposed along Lincoln Drive (as shown on Sheet 5 of applicant's submittal). If necessary, the Planning Commission may develop standards for temporary at-grade golf cart storage to be used to keep the golf course operational while a permanent golf cart storage structure is being constructed;
- H. Residential on east side - A preliminary plat application and development standards in conformance with Sheet 7 shall be submitted by the applicant, but need not be finalized by the time the Planning Commission makes its recommendation on the SUP or the Town Council adopts the SUP. The plat shall address vehicular gates, guard gates, circulation and lot locations/layout. Development standards for the resort residential Area E shall include, but are not limited to:

Statement of Direction

SUP-12-5

DATE June 28, 2012

Page 6 of 9

- Allowed uses – single family residential and uses incidental or accessory thereto (such as barbecues, fences, fireplaces, pools, spas, etc.);
- Maximum of 46 lots;
- Lot size –A mean average lot size of at least 7500 net square feet. Average lot width of 60' (on lots that are not rectangular width shall be measured at the center point);
- Primary Residence/Structure:
 - Setbacks
 - Front yard - 10',
 - Side yard – 5' (zero lot lines allowed).
 - Side yard with frontage - 10',
 - Rear yard - 20';
 - Heights
 - 24' maximum height;
 - Maximum number of stories – mix of one and two stories. The two lots at the southwest corner of the site, plus a minimum of three other perimeter lots shall contain one-story homes;
 - Residence size - Minimum Floor Area – 2000 square feet square;
- Area E - Accessory Structures:
 - Pools, barbecues, fire pits, fireplaces, water features and other accessory structures shall not exceed 6' in height and shall be allowed in the setbacks provided they are located behind allowed walls
 - Accessory structures over 6' but no taller than 15' shall comply with the following setbacks - 10' front yard, 5' side yard (10' side yard with frontage), 7' rear yard (10' rear yard with frontage);
- Area E/East Side - Fences and Walls:
 - The Planning Commission shall review and establish development standards for perimeter fence walls along 56th Street
 - Interior fence walls shall not exceed a height of 6' and shall maintain a setback of:
 - 10' front yard,
 - 0' on side/rear yards,
 - 10' on side/rear yards adjoining a public right-of-way,
 - 5' on side/rear yards adjoining Lot 68,
 - 0' on side/rear yards adjoining all other rights of way;

- Three (3') tall Interior Fence Walls:
 - 10' front yard,
 - 0' on side/rear yards,
 - 10' on side/rear yards adjoining a public right-of-way,
 - 5' on side/rear yards adjoining Lot 68,
 - 0' on side/rear yards adjoining all other rights of way;
- Fences adjoining Lot 68 shall not exceed a height of 6' and shall maintain a setback of:
 - 10' front yard,
 - 5' on side yard,
 - 5' on rear yard;

4. THE PLANNING COMMISSION SHALL REVIEW:

A. Rights-of-Way

The Town will create alternatives for the design and development of 56th Street with a private consultant. Planning Commission shall recommend public improvements on 56th Street based on these alternatives. Planning Commission shall also study public improvements along Lincoln Drive and McDonald Drive and make recommendations to Council. Public improvements are not limited to the center line of Lincoln Drive, 56th Street and McDonald Drive and should include the entire right-of-way;

- All roadway amenities such as sidewalks, medians, round-a-bouts, deceleration lanes, and traffic/pedestrian signals shall be reviewed;
- 56th Street – shall be viewed as an iconic “visually significant corridor” in accordance with the General Plan standards while maintaining current privacy of neighbors and a cross section with a typical landscape treatment shall be reviewed;
- Lincoln Drive – Dedication of Right-of-Way easements
 - The right-of-way easements shall remain. The Town will not require dedication of these easements via this SUP application request. The applicant shall identify setback from both the property line and edge of right-of-way easement.
- Cross Section of 56th Street
 - The Planning Commission and Consultant shall develop a cross section of 56th Street, which includes, but is not limited to, streetscape design and development standards
- There shall be discussion on the Lincoln Drive streetscape, including possible removal of all or part of the existing oleanders;

Statement of Direction

SUP-12-5

DATE June 28, 2012

Page 8 of 9

- **Monument signs – placement and size parameters of monument signs shall be established;**

B. View Corridors shall be subject to the following:

- **Reviewed in conjunction with the private consultant;**
- **Compliance with the General Plan;**
- **Compliance with the Open Space Criteria and determine where the open space criteria is measured;**
- **Perimeter landscaping design/standards;**
- **The removal of all or parts of the oleanders adjoining Lincoln Drive, 56th Street and McDonald Drive; however, privacy of residents must be maintained and proposed berming shall be explored**
- **Where all or part of oleander hedge is removed, the Planning Commission shall make a recommendation of alternate screening;**

C. Stipulations

The Planning Commission may craft stipulations to address the landscaping, mechanical equipment screening and locations, resort operational issues and standards (such as hours of operation, amplified music, etc..) and other land use concerns not otherwise in conflict with this SOD;

D. Excesses from the SUP Guidelines

Except with respect to those items set forth on Sheets 2, 2.1, 3, 4, 5, 5.1, 7, and 10 and otherwise set forth in this SOD the Planning Commission shall address any improvements/uses that exceed the SUP Guidelines such as additional heights or deviations from setbacks and the applicant must provide a rationale for the deviation from these standards;

E. The Planning Commission shall not address any development agreement issues such as financing and phasing of construction;

Per Section 2-5-2.D.1 of the Town Code, the Planning Commission shall complete its review and hearing process in 90 days (the 90th day being September 25, 2012)

The Planning Commission may request clarification and/or expansion of this Statement of Direction based on additional information that has evolved at any time during the review process (as per Section 1102.3.C.3.c of the Zoning Ordinance)

5. THE TOWN MANAGER SHALL REVIEW

After approval of the Special Use Permit and prior to the issuance of building permits for a particular phase of development (this does not prevent the acquisition of demolition permits), the applicant shall provide to the Town for each phase of development proposed:

Statement of Direction

SUP-12-5

DATE June 28, 2012

Page 9 of 9

- **Additional submittals such as lighting, interior landscaping, circulation, parking, and interior signage plans to be approved by the Town Manager or his designee;**
- **A construction/demolition schedule and/or phasing timeline shall be provided. The demolition of existing structures shall commence within 90 days of SUP approval and be completed 180 days thereafter. The demolition schedule shall also address the necessary site stabilization to be utilized after demolition and before construction. All other phasing will be addressed in the Development Agreement;**
- **Review and approval of items to be reviewed by the Town Manager are not part of the Planning Commission review.**



Memorandum

TO: Planning Commission

FROM: George Burton, Planner *GB*
Molly Hood, Senior Planner
Eva Cutro, Community Development Director *EC*

DATE: August 7, 2012

SUBJECT: Work Study Session- Special Use Permit Draft Stipulations
Mountain Shadows Resort (SUP-12-5)
5525 E. Lincoln Drive and 5641 E. Lincoln Drive

BACKGROUND

History

In 1992, the Town annexed Mountain Shadows Resort. The site is approximately 68 acres in size with a golf course and driving range comprising 37 acres of the site. The existing, but now closed, hotel portion of the resort occupies the remaining 31 acres. An application for a Special Use Permit was filed on October 31, 2005. That application was revised and reactivated on May 15, 2012. Due to the long period of time between the original application and revised submittal, the applicant has agreed that the revised submittal will go through the town's current SUP review process.

Request:

The application for the Mountain Shadows SUP includes a mix of resort, residential, and golf course uses. The east side of 56th Street will be residentially subdivided (46 lots maximum). The west side will contain a resort hotel (100 key minimum), resort residential units (a mix of suites and villas), resort retail, and golf facilities. The golf course will be modified with the relocation of several holes and the reconfiguration of the practice area. The plans also contain improvements to 56th Street.

The Mountain Shadows Resort Statement of Direction states that the Planning Commission may craft stipulations to address the landscaping, mechanical equipment screening and locations, resort operational issues and standards (such as hours of operation, amplified music, etc..) and other land use concerns not otherwise in conflict with this SOD. The Statement of Direction also states that the Planning Commission may establish development standards for items such as Lincoln Drive exceptions, the maintained facility, common use pools, perimeter walls and fences, and 56th Street. Staff has prepared and will present the draft SUP Stipulations to the Planning Commission. A copy of the draft stipulations are enclosed for Commission review.

Statement of Direction

Per the Town's new SUP ordinance, the Town Council shall issue a Statement of Direction for Intermediate SUP Amendments. A Statement of Direction is intended to provide general guidelines or project parameters as the application progresses through the Planning Commission and Town Council review. A Statement of Direction is not a final decision and shall create no vested rights to the approval of a Special Use Permit. Nor shall the applicant rely on the matters addressed in the Statement of Direction as those that may become part of an approved Special Use Permit. The Town Council approved the Mountain Shadows Resort's Statement of Direction on June 28, 2012.

PLANNING COMMISSION DISCUSSION

The Planning Commission discussed the proposed application at the June 29, 2012 and July 31, 2012 work study sessions. The draft stipulations and preliminary plat will be discussed at the August 7, 2012 work study session.

DOCUMENTATION ATTACHED

Draft Special Use Permit Stipulations

June 28, 2012 Mountain Shadows Resort Statement of Direction

**EXHIBIT B
TO
ORDINANCE NUMBER 653**

**TOWN OF PARADISE VALLEY
SPECIAL USE PERMIT FOR MOUNTAIN SHADOWS RESORT
SUP-12-5**

I. PROJECT DESCRIPTION

Pursuant to Article XI of the Zoning Ordinance of the Town of Paradise Valley, Arizona (the "Town"), the Town hereby grants to MTS Land, LLC, a Delaware limited liability company, its affiliates, successors and MTS Golf, LLC, a Delaware limited liability company, its affiliates, successors and assigns (collectively, the "Resort Hotel Owner"), this special use permit (this "Special Use Permit") governing the use of the real property described below (the "Property"). This Special Use Permit 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 is comprised of approximately 68 acres of land bisected by 56th Street between Lincoln Drive and McDonald Drive in the Town of Paradise Valley, Arizona, as more particularly described on Exhibit A. Maricopa County first issued use permits for the Property in the late 1950s/early 1960s. In 1992, the Property was annexed into the Town as an operating resort pursuant to an agreement between the Town and MTS Land LLC and MTS Golf LLC, dated _____. 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 "Stipulations"), the improvements, facilities and uses authorized to be developed, redeveloped, and used on the Property include the following: Hotel, Clubhouse, Resort Suites which may be sold (and thereafter resold) to a third party and used as provided herein; Resort Villas which may be sold (and thereafter resold) to a third party and used as provided herein; Resort Estates (East Side Homes/Residences); Golf Course; the Resort Ancillary Facilities and Uses; and such other facilities and uses.

II. DEFINITIONS

"Approved Plans" means those certain plans and other documents listed in Exhibit B to Mountain Shadows Stipulations below.

"Clubhouse" means the building and related structures and uses depicted on the Approved Plans and Narrative as describe in the Stipulations.

"Courtyard Areas" mean any residential courtyard areas as defined in Article XXIV of the Town Zoning Ordinance.

"Developable Area" means the Land Use Areas A, B, C, E, F, and G (as shown on Sheet 2).

"Existing Entitlements" means whatever rights the Resort Hotel Owner had with respect to the use and development of the Property prior to the Approval Date.

"Floor Area Ratio" means the total floor area divided by the total lot area.

"Golf Course" means the 18-hole golf course and practice facility generally depicted on the Approved Plans (Sheet 10).

"Hotel" means the Lodge Building, Club House, Resort Suites, Resort Villas and all related structures, appurtenances, facilities, and uses depicted on the *Approved Plans*, the Narrative and as described in the Stipulations.

"Land Use Plan" means that certain Land Use Plan (Sheet 2) prepared by Oz Architects, Inc.

"Lodge Building" means the primary Hotel building containing among other things guest reception, restaurant, bar, retail, Resort Suites and other Resort Ancillary Facilities and Uses as depicted on the *Approved Plans* and as described in the Stipulations.

"Lot Area" means the area bounded by the recorded property description of a lot, excluding any dedicated right of way, street or alley, and excluding any private road for which a Special Use Permit has been granted (68.48 acres).

"Maximum floor area" means the floor area ratio shall not be more than 25% and shall be computed using the total lot area of 68.48 acres which includes the golf course. Individual lots within the overall 68.48 acres shall not be limited by the 25% floor area ratio as to that particular lot (i.e. the individual Resort Estate lots are not limited to a maximum floor area ratio of 25%).

"Net Square Footage" means the conditioned and non-conditioned area under roof, per story, but excludes the floor area of any fully subterranean portions of a building.

"Resort" means the entire property and all facilities and other improvements existing, developed or redeveloped on the Property in general conformance with the Approved Plans and/or the 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; indoor and outdoor meeting, convention, display, exhibit, 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; central plant, maintenance shop, engineering facilities, housekeeping facilities, laundry, storage and support facilities; valet and other parking facilities, parking garages and areas; 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 Resort Casitas, 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; golf, tennis, and other recreational or sport uses and services, amenities, recreational facilities and fitness facilities; and uses now or hereafter located, offered or utilized at any other deluxe resort now or hereafter operating in Maricopa County, Arizona.

“Resort Estates” means the 46 lots and residences in areas E (as shown on Sheet 2).

"Resort Unit" means a room or group of rooms which can be locked and served by a single key and 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.

"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.

“Resort Hotel” means the 100 to 314 Resort Units.

“Resort Residential” means the 189 Resort Units.

"Site Plan" means that certain Site Plan prepared by Oz Architects, Inc.

“Tall Structures” mean any third story building or structure in excess of 28 feet in height (Sheet 9.3).

“Total Floor Area” means the area under roof added to the floor area of any second and third story. The total floor area also includes any residential courtyard areas (as defined in Article XXIV of the Town Zoning Ordinance) in Area E (east of 56th street); the solid portion(s) of trellises and/or open weave roofs, and all area under roof in accessory buildings such as gazebos, ramadas and other accessory buildings. The total floor area excludes the floor area of any fully subterranean portions of a building, courtyard areas (for any area west of 56th Street), and overhangs not over useable exterior spaces (as illustrated on Sheet 2.1).

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

III. STIPULATIONS

A. GENERAL

1. In the event of a conflict between the Mountain Shadows Resort Special Use Permit stipulations and the approved plans, the stipulations shall prevail.
2. As of the Approval Date, this Special Use Permit shall supersede and replace the Existing Entitlements, provided that this provision is expressly conditioned on MTS Land LLC and MTS Golf LLC or its affiliate, subsidiary or nominee purchasing the Property.
3. 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.
4. 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.
5. 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.
6. The redevelopment and construction of the Property shall, subject to the Stipulations, substantially conform with the intent of 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. In the event of a conflict between the Approved Plans and these Stipulations, the Stipulations shall prevail.
7. A mylar and electronic version of the Approved Plans and an 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.

8. Nothing in this Special Use Permit or otherwise shall require the operation of the Resort under the name "Mountain Shadows," "Mountain Shadows 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.
9. 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.
10. 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 until such time as a special use permit or other applicable zoning for the Resort is issued or reissued 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. DEMOLITION

11. A construction/demolition schedule and/or phasing timeline shall be submitted to the Town of Paradise Valley. The demolition of existing structures shall commence within 90 days of SUP approval and be completed 180 days thereafter. The demolition schedule shall also address the necessary site stabilization to be utilized after demolition and before construction.

C. DEVELOPMENT

12. All permanent public 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 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 or Resort Estates. Sewage shall be disposed of by connection with the sewer system. All water and sewage facilities shall be constructed in accordance with plans approved by the Town Manager.

13. 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. This provision shall not impede continued maintenance, repair or replacements of the Golf Course, including arbor care, irrigation system replacement and other renovation of existing features that are to remain as part of the Golf Course, or are necessary to keep the Golf Course operating prior to initiation of remodeling of the Golf Course as contemplated by the Approved Plans and the Stipulations..
14. Access to the Property during construction shall comply with the following.
 - a. During redevelopment of the Resort, temporary curb cuts may be allowed on 56th Street to allow construction access to the Property both east and west of 56th Street, such temporary curb cuts and their location shall be approved by the Town Engineer. A maximum of two such curb cuts shall be allowed on each side of 56th Street between Lincoln Drive and the southern boundaries of the Property.
 - b. Prior to the issuance of a certificate of occupancy, adequate fire, emergency and other vehicle access and adequate fire service shall be provided in the Resort, Resort Hotel, Resort Residential and Resort Estates as determined by the Town Manager.
15. If construction has not commenced on any Resort Estate building by a date that is three (3) years after issuance of the initial building permit for the first element of work (excluding the grading and demolition permits), any such Resort Estate building pad shall be landscaped as reasonably required by the Town Manager.
16. The Resort Hotel Owner's development plans 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. A pre-demolition meeting must be held with the Town Manager prior to demolition of any structures.
17. 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
18. 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.
 19. During construction, the Resort Hotel Owner shall sweep Lincoln Drive, 56th Street and McDonald Drive adjacent to the Property to remove construction-related dirt and debris, as reasonably required by the Town Manager.
 20. Sidewalks along 56th Street shall be designed and constructed in accordance with the plans prepared by the Town's Consultant. 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 56th Street shall be approved by the Town Manager.
 21. The public improvements shall be installed as depicted on the Approved Plans. Bonding of all offsite improvements shall be submitted prior to the issuance of any building permits.
 22. Building Heights. The maximum building heights shall be in accordance with the Approved Plans:
 - a. Open Space Criteria – South Part of Area C:
 - i. The Open Space Criteria shall be measured at the north side of Mountain Shadows West (MTS) Drive;
 - b. Open Space Criteria – West side of 56th Street:
 - i. All buildings shall comply with the Open Space Criteria and shall maintain a minimum setback of 40 feet;
 - c. No new two-story element shall be closer than 50 feet to an existing one-story residence existing at the date the SUP is granted (measured between exterior walls) ;
 - d. The maximum height and number of stories shall comply with Sheet 5 and with the following:
 - i. Areas A, B, and C – Maximum 3 story up to 36 feet tall, except for a maximum 2 story up to 28 feet tall (for structures with private attached garages);
 - ii. Area E – Maximum 2 story up to 24 feet tall; and
 - iii. Area F – Maximum 1 story up to 24 feet tall;
 - iv. Total third-story and 36 foot height square footage shall not exceed 120,000 square feet;

- e. Height measurements shall be taken from the original natural grade as set forth on Sheet 4. Since the original natural grade has been established by the Town Engineer and applicant's engineer, the Town Council finds that the original natural grade as submitted is acceptable. If finished grade is not restored back to original natural grade, the maximum height shall be measured from the mid-point equidistant from the high point and low point of the Original Natural Grade or un-restored or existing grade, whichever is lower immediately adjacent to such building (in accordance with Note 3 of Sheet 4);
 - f. Mechanical equipment and mechanical equipment screens shall be included in the total height of any structure they are attached to;
23. The location (i.e. footprint) of any building or structure, or any portion thereof, shall be in accordance with the Approved Plans. Tall Structures shall be limited to the locations identified on the Sheet 9.3. Any change in the location of the Tall Structure(s) shall be subject to an Amendment to the Special Use Permit.
24. The redevelopment of the Golf Course shall be in accordance with the Approved Plans (Sheet 10). Other than periods of repair, remodel or replacement, if the Golf Course is not utilized as a golf course, it shall be maintained as landscaped open space.
25. The building elevations, architectural elements and features (such as parapets, eaves, hips, gables, etc.), materials, and colors shown on the plans are conceptual in nature. Final building plans may vary from these concepts provided that they are generally consistent with the architectural style reflected in such concepts as determined by the Town Manager.
26. The maximum floor area ratio shall not be more than 25% and shall be computed using the total lot area of 68.48 acres which includes the golf course. Individual lots within the overall 68.48 acres shall not be limited by the 25% floor area ratio as to that particular lot (i.e. the individual Resort Estate lots are not limited to a maximum floor area ratio of 25%).

The total floor area shall be defined as the area under roof added to the floor area of any second and third story. The total floor area also includes any residential courtyard areas (as defined in Article XXIV of the Town Zoning Ordinance) in Area E (east of 56th street); the solid portion(s) of trellises and/or open weave roofs, and all area under roof in accessory buildings such as gazebos, ramadas and other accessory buildings. The total floor area excludes the floor area of any fully subterranean portions of a building, courtyard areas (for any area west of 56th Street), and overhangs not over useable exterior spaces (as illustrated on Sheet 2.1). Any proposal beyond that shall require an amendment to the SUP.

Any increase in the amount of floor area above 25% shall constitute an amendment to the Mountain Shadows Special Use Permit in accordance with Article XI of the Town Zoning Ordinance. Any parking structure/parking garage that is more than six feet above ground shall be included in the floor area ratio calculation. Any residential courtyard areas (as defined in Article XXIV of the Town Zoning Ordinance) in Area E (east of 56th street) shall be included in the floor area ratio. However, courtyard areas (for any area west of 56th Street) shall be excluded from the floor area ratio calculation.

27. **Minimum setbacks:**
 - a. **Lincoln Drive Exception:**
 - a. A total of 150 lineal feet of building frontage for retail uses located on the west side of 56th Street adjoining Lincoln Drive, may be allowed at a minimum setback of 40 feet from the property line;
 - b. The guard house east of 56th Street adjoining Lincoln Drive may be allowed at a minimum setback of 25 feet from the property line but it will be sent to the Planning Commission for neighborhood input. The Planning Commission may modify and establish the development standards based upon public input, the need for a mail drop, and guard house design;
28. The Monument signs shall comply with the Town of Paradise Valley Special Use Permit Guidelines;
29. **Maintenance Facility**
 - a. The Town Council accepts the development standards as proposed for the maintenance facility. The Planning Commission will review for neighborhood input and may modify and establish the development standards based upon public input;
30. **Common Use Pools**
 - a. The Town Council accepts the development standards as proposed for the common use pools. The Planning Commission will review for neighborhood input and may modify and establish the development standards based upon public input. Common use pools shall substantially comply with the SUP Guidelines.
31. **Land Use Area D – Accessory Structures**
 - a. Existing structures may be reconstructed in their current locations and heights. The Town Council accepts the general location and height of the clubhouse but will send to the Planning Commission for neighborhood input. Any additional new structures within the 60 foot setback or above 16 feet height shall require an amendment to the Special Use Permit;

32. **West Side Perimeter Walls & Fences**
- a. The Planning Commission shall review the perimeter fence walls adjoining Lincoln Drive. The Planning Commission shall examine straight and meandering walls, however, the Town Councils accepts that a meandering wall may encroach into the right-of-way easement;
 - b. The Planning Commission and Consultant shall review and establish development standards for any perimeter fence walls along 56th Street;
 - c. The perimeter fence walls along McDonald Drive shall comply with the development standards outlined on Sheet 5.1 of the applicant submittal. The fence may have a 0 foot setback with no infringement on the golf course. Fence wall may be located at the property line (and not in the Town's ROW). The fence wall shall not exceed a height of 6 feet and shall comply with the site triangle requirements at 56th St and McDonald Dr;
33. No structures shall be placed in a right-of-way easement except approved monument signs and any other approved structures per this Special Use Permit;
34. **Minimum key count for the resort:**
- a. Shall be at least 100 hotel rooms to be located in Area A, Area B, or both (Sheet 2);
 - b. Rental of resort residential units (as shown in Areas "A, B & C") shall be addressed in the Development Agreement;
35. **Golf course and practice range:**
- a. The area of the golf course as shown on Sheet 10 is acceptable;
 - b. Detailed plans regarding the improvements shall be submitted for Town Manager review and approval;
36. **Parking Structure(s)**
- a. Detailed plans regarding any proposed parking structure(s) will be submitted at a later date to be approved by the Town Manager or his designee. If any portion of the proposed parking structure/parking garage is more than six feet above ground, it shall be included in the floor area ratio calculation;
37. **Golf cart storage**
- a. Golf cart storage shall be either underground or in a partially subterranean building that would be completely shielded from view by the wall proposed along Lincoln Drive (as shown on Sheet 5). If necessary, the Planning Commission may develop standards for temporary at-grade golf cart storage to be used to keep the golf

course operational while a permanent golf cart storage structure is being constructed;

38. All mechanical equipment shall be screened so that it is not visible from abutting property. Mechanical equipment and mechanical equipment screens shall be included in the total height of any structure they are attached to;
39. Restrictions Related to Issuance of Resort Estates/East Side Resort Homes Certificates of Occupancy.

Prior to issuance of a certificate of occupancy for the first East Side homes, all of the following shall occur:

- a. All demolition on the east and west side of 56th Street has been completed, grading permits have been issued, and grading has been completed.
- b. All offsite improvements to Lincoln Drive and 56th Street to be done by the Resort Hotel Owner are complete.
- c. All necessary infrastructure such as storm drains, sewer, fire service, water, and electrical serving such Resort Villa is complete, including such items as access roads.
- d. 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 those portions of Resort improvements, including all of the Resort Hotel, Resort Residential, the Lodge Building, and the Clubhouse remaining to be constructed following the issuance of such first certificate of occupancy for the Resort Estate homes. 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 Estates) without construction financing (i.e., using funds available or provided by sources other than a loan), including a combination of borrowed and contributed funds, adequate evidence, such as written certification 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 Resort Hotel, Resort Residential, the Lodge Building, and the Clubhouse remaining to be constructed following the issuance of such first certificate of occupancy for the Resort Estates. If the Resort Hotel Owner provides financial statements or a certificate of net worth evidencing either itself, or an affiliate or partner, or any combination

of the foregoing has a net worth equal or great than \$250 million dollars, then the foregoing stipulation will be satisfied by providing such financial statements or net worth certificate. Any such financial statements so submitted shall be held in confidence by the Town and shall be reviewed solely by the Town Manager and Town Attorney, or such advisor appointed by them who agrees to keep such financial statements confidential.

40. Special Requirements for the Resort Estates (Area E).

- a. A maximum of 46 homes may be constructed on the lots illustrated on the preliminary plat/final plat.
- b. Allowed uses – single family residential and uses incidental or accessory thereto (such as barbecues, fences, fireplaces, pools, spas, etc.);
- c. Lot size – A mean average lot size of at least 7500 net square feet. Average lot width of 60 feet (on lots that are not rectangular width shall be measured at the center point);
- d. Primary Residence/Structure:
 1. Minimum Setbacks
 - Front yard – 10 feet
 - Side yard – 5 feet (zero lot lines allowed)
 - Side yard with frontage – 10 feet
 - Rear yard – 20 feet
 2. Heights
 - 24 feet maximum height
 - Maximum number of stories – mix of one and two stories. The two lots at the southwest corner of the site, plus a minimum of three other perimeter lots shall contain one-story homes
 3. Minimum floor area of 2,000 square feet;
 4. Maximum floor area of _____ square feet or %
- e. Accessory Structures:
 1. Pools, barbecues, fire pits, fireplaces, water features and other accessory structures shall not exceed 6 feet in height and shall be allowed in the setbacks provided they are located behind and completely screened by the allowed walls;
 2. Accessory structures over 6 feet but no taller than 15 feet shall comply with the following setbacks – 10 foot front yard, 5 foot side yard (10 foot side yard with frontage), 7 foot rear yard (10 foot rear yard with frontage);

f. Fences and Walls:

1. The Planning Commission shall review and establish the development standards for perimeter fence walls along 56th Street;
2. Interior fence walls shall not exceed a height of 6 feet shall maintain a setback of:
 - Front yard – 10 feet,
 - Side/Rear yards – 0 feet,
 - Side/rear yards adjoining a public right-of-way – 10 feet
 - Side/rear yards adjoining Lot 68 – 5 feet
 - Side/rear yards adjoining all other rights of way – 0 feet
3. Three (3') tall Interior Fence Walls:
 - Front yard – 10 feet,
 - Side/rear yards – 0 feet,
 - Side/rear yards adjoining a public right-of-way – 10 feet
 - Side/rear yards adjoining Lot 68 – 5 feet
 - Side/rear yards adjoining all other rights of way – 0 feet
4. Fences adjoining Lot 68 shall not exceed a height of 6' and shall maintain a setback of:
 - Front yard – 10 feet,
 - Side yard – 5 feet,
 - Rear yard – 5 feet;

- g. Pool and fountain equipment must be screened. All heaters are to be stackless or low-profile in configuration;
- h. All exterior lighting shall comply with the Town zoning ordinances and the Special Use Permit Guidelines;
- i. All mechanical equipment shall be screened so that it is not visible from abutting property. Mechanical equipment and mechanical equipment screens shall be included in the total height of any structure they are attached to.
- j. Except as otherwise allowed by Federal or State requirements, antenna and satellite dishes are permitted, as follows:
 1. Satellite dishes must not be 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.
 2. All wiring shall be contained within a structure or underground conduit.

D. USES

41. Temporary tents or pavilions may be erected on the Property in accordance with the Town Code Special Event Permit requirements (Chapter 8). No tent shall be higher than 24 feet above finished grade or closer to any exterior Property line than the minimum setbacks shown for a 24 foot height building on the Land Use Plan. Placement of tents shall have no material adverse impact on parking or circulation on site.
42. The maximum hours of public operation of the following specific uses/facilities shall be as follows:
 - a. Vendor deliveries (other than US Mail, private courier services such as UPS or FedX, or emergencies): 6 am - 7 pm
 - b. Pools, spas and jacuzzis (except pools, spas and jacuzzis located in enclosed private yards including yards such as presidential suites or hotel suites or casitas, which may be used 24 hours/day): 6 am - midnight
 - c. Restaurants and other food service facilities: 6 am - 3 am
 - d. Bars/lounges: 10 am - 3 am
 - e. Banquet facilities, receptions, weddings and socials: 6 am - 3 am
 - f. Resort retail: 7 am - midnight
 - g. Room service: 24 hours/day
 - h. Guest reception and guest services: 24 hours/day
 - i. Parking facilities: 24 hours/day
 - j. Spa & fitness facilities: 24 hours/day (outside members limited to 5 am - midnight).
 - k. Trash pickup: 7 am - 7 pm
 - l. Golf Course, maintenance areas and practice area: 5:30 am - until 60 minutes after sunset; except that events in event area shall comply with e. above.
57. Use of Resort Villas and Resort Suites.
 - a. Resort Residential (Land Use Areas A, B, C and F). Each owner of a Resort Unit 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. Resort Suites (Land Use Area E). Each owner of a Resort Unit 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.

58. Recorded Documents

The following stipulations shall be set forth in certain easements and/or covenants, conditions and restrictions ("CC&Rs") or other recorded instruments, to be recorded on the Resort or such part thereof 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 easements shall be dedicated and maintained as needed and determined by the Town of Paradise Valley.
2. Utility easements shall be dedicated and maintained as needed and determined by the Town of Paradise Valley.
3. Drainage easements shall be dedicated and maintained as needed and determined by the Town of Paradise Valley.
4. West Side (Land Use Areas A, B, C and F). Easement for the Resort Hotel Owner to Maintain and Repair the Resort, Resort Hotel and Resort Residential. An easement to enable the Resort Hotel Owner to fully control the maintenance and repair of 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. West Side (Land Use Areas A, B, C and F) - Exterior Yards of the Resort Residential. 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 Residential yard located outside of privacy walls, to ensure consistency of landscaping and maintenance throughout the Resort.
2. West Side (Land Use Areas A, B, C and F) - Maintenance and Repair of Exteriors of the Resort, Resort Hotel, Resort Residential and Related Improvements. The Resort Hotel Owner shall be entitled and responsible to maintain or shall cause to be maintained

the exteriors of the Resort, Resort Hotel, Resort Residential and related improvements, such as the exterior features of garages, fences, walls and the like, to ensure consistency throughout the Resort.

3. **Town Self-Help Remedy.** A covenant will be recorded on the Resort, Resort Hotel, Resort Residential (which may be set forth in the CC&R's) providing the Town a right to perform exterior maintenance and repair of those properties and related facilities (i.e., access roads and parking lots) to the extent maintenance and repair of each the Resort Hotel and Resort Residential unit if such unit is not reasonably maintained and such deficiency is not cured within a reasonable period of time, following notice and hearing, 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 Resort Hotel and Resort Residential unit, and enforce such lien as provided by Arizona law.
 4. **Rental.** Resort Residential and Resort Estates owners may participate in the Resort Hotel Owner's rental program at their option.
 5. **Registration at Front Desk.** Each principal occupant (other than the owner) of a Resort Residential and Resort Estates shall register with the onsite registration 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.
 6. **Rental by Rental Agents Other than Resort Hotel Owner.** Rentals of Resort Residential and Resort Estates 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 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. Any operator of the hotel offering a rental program shall be deemed to comply with this stipulation.
59. The existing guard house/guard gate (the "MS West Guardhouse") immediately west of Lot 69 that currently services Mountain Shadows Estates West will remain. If Mountain Shadows Estates West at some time in the future decides to re-build the MS West Guardhouse, an

amendment to this Special Use Permit shall be required in accordance with Article XI of the Town Zoning Ordinance.

60. All the improvements, except for the pavement, of Lincoln Drive, 56th Street and McDonald Drive shall be maintained by Resort Hotel Owner.
61. Prior to the issuance of building permits for a particular phase of development (this does not prevent the acquisition of demolition permits), the applicant shall provide to the Town for each phase of development proposed:
 1. The lighting, interior landscaping, circulation, parking, and interior signage plans shall be submitted for Town Manager review and approval in accordance with Article XI of the Town zoning ordinance

E. PARKING & CIRCULATION

48. Parking and circulation shall be reviewed and approved by the Town Manager or his designee. The minimum parking counts shall be based upon the Special Use Permit Guidelines, the Institute of Transportation Engineers (ITE) or the American Association of State Highway and Transportation Officials (AASHTO) standards. The standard that generates the largest required parking count shall prevail.
49. 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.
50. Unlicensed support vehicles (i.e., golf carts, utility vehicles, etc.) may be used to service the Resort, and to transport and provide persons or service to guests of the Resort and owners of the Resort Units and by owners of the Resort Residential and Resort Estates.
51. 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.

52. At any time the parking demand within the Resort reaches capacity, the Resort Hotel Owner shall submit a valet parking plan for review and approval by the Town Manager or his designee.
53. Trash service for the Resort, Resort Hotel and Resort Residential shall be provided either directly by Resort Hotel Owner or through a single third party vendor. Incidental removal of trash, debris and landscape material may be handled by alternative vendors.
54. All streets and drives within the 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.

F. MANAGEMENT

55. 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.

G. CELLULAR ANTENNAS

56. 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 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 or any successor ordinance regarding the conditions and limitations of special use permits.

H. LIGHTING

57. If the Town receives a complaint from an off site owner that the light emitting element (i.e., the bulb) within an exterior light fixture is visible from off the Property, Town Manager may inspect the Property and require the Resort Hotel Owner to redirect such light source if the light emitting element is visible from outside the Property.
58. The exterior lighting shall be submitted for Town Manager review and approval in accordance with Article XI of the Town zoning ordinance.

**SUP-12-5
Mountain Shadows Resort**

**-Statement of Direction -
June 28, 2012**

On May 15, 2012, the applicant reactivated and revised their Special Use Permit application to allow for the development of a resort hotel, resort retail, golf course modifications and resort residential homes.

Section 1102.3 of the Town's Zoning Ordinance states the Town Council must issue a Statement of Direction (SOD) for the Special Use Permit application within 45 days of the first staff presentation. In this case, the Statement of Direction must be issued on or before July 6, 2012.

The Statement of Direction is not a final decision of the Town Council and does not create any vested rights to the approval of a Special Use Permit (SUP). Any applicant for a Special Use Permit shall not rely upon the matters addressed in the Statement of Direction being the same as those that may be part of an approved Special Use Permit.

Therefore, the Town Council issues the following Statement of Direction for SUP-12-5, Mountain Shadows Resort:

1. The General Plan encourages revitalization and improvement of existing resorts within the Town of Paradise Valley;
2. The Mountain Shadows property does not presently have a Special Use Permit. In addition, the Town Council desires to adopt a Special Use Permit which relies on Sheets 2, 2.1, 3, 4, 5, 5.1, 7, and 10 of the applicant's submittal. The Town Council finds that the proposed resort concept specified in the documentation submitted by the applicant is acceptable and does not need further study by the Planning Commission unless specifically requested in this SOD.
3. THE TOWN COUNCIL FINDS THE FOLLOWING CONDITIONS ACCEPTABLE:
 - A. Maximum floor area (and floor area ratio):
 - The floor area ratio shall not be more than 25% and shall be computed using the total lot area of 68.48 acres which includes the golf course;
 - Any increase in the amount of floor area above 25% shall constitute an amendment to the Mountain Shadows Special Use Permit in accordance with Article XI of the Town Zoning Ordinance;

Statement of Direction
SUP-12-5
DATE June 28, 2012
Page 2 of 9

- *Total Floor Area* shall be defined as the area under roof added to the floor area of any second and third story. The total floor area also includes any residential courtyard areas (as defined in Article XXIV of the Town Zoning Ordinance) in Area E (east of 56th street); the solid portion(s) of trellises and/or open weave roofs, and all area under roof in accessory buildings such as gazebos, ramadas and other accessory buildings. The total floor area excludes the floor area of any fully subterranean portions of a building, courtyard areas (for any area west of 56th Street), and overhangs not over useable exterior spaces (as illustrated on sheet 2.1 of the applicant's packet). Any proposal beyond that shall require an amendment to the SUP;
 - *Covered Parking Structures with Solar Panels:*
 - Any parking structure/parking garage that is more than six feet above ground shall be included in the floor area ratio calculation;
 - *Courtyard Areas:*
 - Any residential courtyard areas (as defined in Article XXIV of the Town Zoning Ordinance) in Area E (east of 56th street) shall be included in the floor area ratio. However, courtyard areas (for any area west of 56th Street) shall be excluded from the floor area ratio calculation;
 - *Lot Area* shall be defined as the area bounded by the recorded property description of a lot, excluding any dedicated right of way, street or alley, and excluding any private road for which a Special Use Permit has been granted (68.48 acres). Individual lots within the overall 68.48 acres shall not be limited by the 25% floor area ratio as to that particular lot;
 - *Developable Area* shall be defined as areas A, B, C, E, F, and G (as shown on Sheet 2 of applicant's submittal) Area D may be improved in accordance with note 4 on Sheet 5.1;
- B. Maximum building heights (including Open Space Criteria and number of stories) shall conform to the SUP guidelines except as set forth on sheets 5 and 5.1:
- 36' Height and Third Story Elements
 - The Planning Commission shall review any proposed third story buildings or structures exceeding 28 feet in height ("Tall Structures"). The Commission shall encourage large setbacks from Lincoln Drive at least 120 feet net of the Lincoln Drive roadway easement areas (and 56th Street) and the establishment of appropriate view corridors for Tall Structures. Applicant shall prepare a site plan showing the locations of

Tall Structures which shall be presented to the Commission during its review of the SUP application. Any site plan for the Tall Structures that is adopted in conjunction with the SUP shall limit the locations for all Tall Structures on the site. Any change in the location of a Tall Structures after the effective date of the SUP shall be subject to review and approval by the Commission at a duly noticed public meeting; said review and approval by the Planning Commission to be at the complete discretion of the Commission;

- Open Space Criteria – South Part of Area C
 - The Open Space Criteria shall be measured at the north side of Mountain Shadows West (MTS) Drive;
- Open Space Criteria – West side of 56th Street
 - All buildings shall comply with the Open Space Criteria and shall maintain a minimum setback of 40 feet;
- No new two-story element shall be closer than 50' to an existing one-story residence existing at the date the SUP is granted (measured between exterior walls) ;
- The maximum height and number of stories shall comply with sheet 5 and with the following:
 - Areas A, B, and C – Maximum 3 story up to 36 feet tall, except for a maximum 2 story up to 28 feet tall (for structures with private attached garages);
 - Area E – Maximum 2 story up to 24 feet tall; and
 - Area F – Maximum 1 story up to 24 feet tall;
 - Total third-story and 36 foot height square footage shall not exceed 120,000 square feet;
- Height measurements shall be taken from the original natural grade as set forth on Sheet 4. Since the original natural grade has been established by the Town Engineer and applicant's engineer, the Town Council finds that the original natural grade as submitted is acceptable. If finished grade is not restored back to original natural grade, the maximum height shall be measured from the mid-point equidistant from the high point and low point of the Original Natural Grade or un-restored or existing grade, whichever is lower immediately adjacent to such building. (see note 3 of Sheet 4);
- Mechanical equipment and mechanical equipment screens shall be included in the total height of any structure they are attached to;

C. Minimum setbacks:

- Lincoln Drive Exception:
 - A total of 150 lineal feet of building frontage for retail uses located on the west side of 56th Street adjoining Lincoln Drive, may be allowed at a minimum setback of 40 feet from the property line;
 - The guard house east of 56th Street adjoining Lincoln Drive may be allowed at a minimum setback of 25 feet from the property line but it will be sent to the Planning Commission for neighborhood input. The Planning Commission may modify and establish the development standards based upon public input, the need for a mail drop, and guard house design;
- Maintenance Facility
 - The Town Council accepts the development standards for the maintenance facility but will send to the Planning Commission for neighborhood input. The Planning Commission may modify and establish the development standards based upon public input;
- Common Use Pools
 - The Town Council accepts the development standards the common use pools but will send to the Planning Commission for neighborhood input. The Planning Commission may modify and establish the development standards based upon public input;
- Area D – Accessory Structures
 - Existing structures may be reconstructed in their current locations. The Town Council accepts the general location and height of the clubhouse but will send to the Planning Commission for neighborhood input. Any additional new structures within the 60 foot setback or above 16 feet height shall require an amendment to the Special Use Permit;
- West Side Perimeter Walls & Fences
 - The Planning Commission shall review the perimeter fence walls adjoining Lincoln Drive. The Planning Commission shall examine straight and meandering walls, however, the Town Councils accepts that a meandering wall may encroach into the right-of-way easement;

- The Planning Commission and Consultant shall review and establish development standards for any perimeter fence walls along 56th Street;
 - The perimeter fence walls along McDonald Drive shall comply with the development standards outlined on Sheet 5.1 of the applicant submittal. The fence may have a 0 foot setback with no infringement on the golf course;
- No structures shall be placed in a right-of-way easement except approved monument signs;
- D. Minimum key count for the resort:
- Shall be at least 100 hotel rooms to be located in Area A, Area B, or both (see Sheet 2);
 - Rental of resort residential units (as shown in Areas "A, B & C") shall be addressed in the Development Agreement;
- E. Golf course and practice range:
- The area of the golf course as shown on Sheet 10 is acceptable;
 - Detailed plans regarding the improvements shall be submitted for Town Manager review and approval;
- F. Parking Structure(s)
- Detailed plans regarding the parking structure(s) will be submitted at a later date to be approved by the Town Manager or his designee. If any portion of the parking structure/parking garage is more than six feet above ground, it shall be included in the floor area ratio calculation;
- G. Golf cart storage
- Golf cart storage shall be either underground or in a partially subterranean building that would be completely shielded from view by the wall proposed along Lincoln Drive (as shown on Sheet 5 of applicant's submittal). If necessary, the Planning Commission may develop standards for temporary at-grade golf cart storage to be used to keep the golf course operational while a permanent golf cart storage structure is being constructed;
- H. Residential on east side - A preliminary plat application and development standards in conformance with Sheet 7 shall be submitted by the applicant, but need not be finalized by the time the Planning Commission makes its recommendation on the SUP or the Town Council adopts the SUP. The plat shall address vehicular gates, guard gates, circulation and lot locations/layout. Development standards for the resort residential Area E shall include, but are not limited to:

- Allowed uses – single family residential and uses incidental or accessory thereto (such as barbecues, fences, fireplaces, pools, spas, etc.);
- Maximum of 46 lots;
- Lot size – A mean average lot size of at least 7500 net square feet. Average lot width of 60' (on lots that are not rectangular width shall be measured at the center point);
- Primary Residence/Structure:
 - Setbacks
 - Front yard - 10',
 - Side yard – 5' (zero lot lines allowed).
 - Side yard with frontage - 10',
 - Rear yard - 20';
 - Heights
 - 24' maximum height;
 - Maximum number of stories – mix of one and two stories. The two lots at the southwest corner of the site, plus a minimum of three other perimeter lots shall contain one-story homes;
 - Residence size - Minimum Floor Area – 2000 square feet square;
- Area E - Accessory Structures:
 - Pools, barbecues, fire pits, fireplaces, water features and other accessory structures shall not exceed 6' in height and shall be allowed in the setbacks provided they are located behind allowed walls
 - Accessory structures over 6' but no taller than 15' shall comply with the following setbacks - 10' front yard, 5' side yard (10' side yard with frontage), 7' rear yard (10' rear yard with frontage);
- Area E/East Side - Fences and Walls:
 - The Planning Commission shall review and establish development standards for perimeter fence walls along 56th Street
 - Interior fence walls shall not exceed a height of 6' and shall maintain a setback of:
 - 10' front yard,
 - 0' on side/rear yards,
 - 10' on side/rear yards adjoining a public right-of-way,
 - 5' on side/rear yards adjoining Lot 68,
 - 0' on side/rear yards adjoining all other rights of way;

- Three (3') tall Interior Fence Walls:
 - 10' front yard,
 - 0' on side/rear yards,
 - 10' on side/rear yards adjoining a public right-of-way,
 - 5' on side/rear yards adjoining Lot 68,
 - 0' on side/rear yards adjoining all other rights of way;
- Fences adjoining Lot 68 shall not exceed a height of 6' and shall maintain a setback of:
 - 10' front yard,
 - 5' on side yard,
 - 5' on rear yard;

4. THE PLANNING COMMISSION SHALL REVIEW:

A. Rights-of-Way

The Town will create alternatives for the design and development of 56th Street with a private consultant. Planning Commission shall recommend public improvements on 56th Street based on these alternatives. Planning Commission shall also study public improvements along Lincoln Drive and McDonald Drive and make recommendations to Council. Public improvements are not limited to the center line of Lincoln Drive, 56th Street and McDonald Drive and should include the entire right-of-way;

- All roadway amenities such as sidewalks, medians, round-a-bouts, deceleration lanes, and traffic/pedestrian signals shall be reviewed;
- 56th Street – shall be viewed as an iconic “visually significant corridor” in accordance with the General Plan standards while maintaining current privacy of neighbors and a cross section with a typical landscape treatment shall be reviewed;
- Lincoln Drive – Dedication of Right-of-Way easements
 - The right-of-way easements shall remain. The Town will not require dedication of these easements via this SUP application request. The applicant shall identify setback from both the property line and edge of right-of-way easement.
- Cross Section of 56th Street
 - The Planning Commission and Consultant shall develop a cross section of 56th Street, which includes, but is not limited to, streetscape design and development standards
- There shall be discussion on the Lincoln Drive streetscape, including possible removal of all or part of the existing oleanders;

- Monument signs – placement and size parameters of monument signs shall be established;

B. View Corridors shall be subject to the following:

- Reviewed in conjunction with the private consultant;
- Compliance with the General Plan;
- Compliance with the Open Space Criteria and determine where the open space criteria is measured;
- Perimeter landscaping design/standards;
- The removal of all or parts of the oleanders adjoining Lincoln Drive, 56th Street and McDonald Drive; however, privacy of residents must be maintained and proposed berming shall be explored
- Where all or part of oleander hedge is removed, the Planning Commission shall make a recommendation of alternate screening;

C. Stipulations

The Planning Commission may craft stipulations to address the landscaping, mechanical equipment screening and locations, resort operational issues and standards (such as hours of operation, amplified music, etc..) and other land use concerns not otherwise in conflict with this SOD;

D. Excesses from the SUP Guidelines

Except with respect to those items set forth on Sheets 2, 2.1, 3, 4, 5, 5.1, 7, and 10 and otherwise set forth in this SOD the Planning Commission shall address any improvements/uses that exceed the SUP Guidelines such as additional heights or deviations from setbacks and the applicant must provide a rationale for the deviation from these standards;

E. The Planning Commission shall not address any development agreement issues such as financing and phasing of construction;

Per Section 2-5-2.D.1 of the Town Code, the Planning Commission shall complete its review and hearing process in 90 days (the 90th day being September 25, 2012)

The Planning Commission may request clarification and/or expansion of this Statement of Direction based on additional information that has evolved at any time during the review process (as per Section 1102.3.C.3.c of the Zoning Ordinance)

5. THE TOWN MANAGER SHALL REVIEW

After approval of the Special Use Permit and prior to the issuance of building permits for a particular phase of development (this does not prevent the acquisition of demolition permits), the applicant shall provide to the Town for each phase of development proposed:

Statement of Direction

SUP-12-5

DATE June 28, 2012

Page 9 of 9

- **Additional submittals such as lighting, interior landscaping, circulation, parking, and interior signage plans to be approved by the Town Manager or his designee;**
- **A construction/demolition schedule and/or phasing timeline shall be provided. The demolition of existing structures shall commence within 90 days of SUP approval and be completed 180 days thereafter. The demolition schedule shall also address the necessary site stabilization to be utilized after demolition and before construction. All other phasing will be addressed in the Development Agreement;**
- **Review and approval of items to be reviewed by the Town Manager are not part of the Planning Commission review.**

MEMORANDUM

TO: Planning Commission Members
FROM: Andrew M. Miller, Town Attorney *AM*
SUBJECT: **Zoning Ordinance Changes related to Sections 904, 1102.2(B), 1102.3, 1102.8, & 2404; and Other Zoning Ordinance Changes**
DATE: August 7, 2012

Over the past year, the Town Staff, Town Council, and others have identified a number of sections of the Town Zoning Ordinance that may need to be modified or changed. Some of these changes relate to the implementation of the general plan and others to problems and issues identified in the processing of zoning and building applications over the past year.

Simpler Changes

In compiling the list of potential or proposed Zoning Ordinance sections needing to be reviewed, the Town staff has identified those that appear to be simpler changes that can likely be studied in a shorter time frame. For these simpler changes, it is recommended that the Planning Commission review these suggested changes and, with Town staff's assistance, draft them in an ordinance format and make a recommendation to the Town Council by September 19, 2012.

Some of these suggested changes would be as follows:

- Article IX, Section 904 - adding golf course common areas in cluster plans as "public uses"
- Article XI, Section 1102.3 - clarifying the Special Use Permit document submittal requirements
- Article XI, Section 1102.2 - adding kennels and veterinary clinics as allowed uses within the Medical Office SUP District designation
- Article XI, Section 1102.8 - creating a process for appeals from a Minor SUP Amendment decision
- Article XXIV, Section 2404 - changing the 40' front yard setback for a 6 foot wall/view fence combination to a 10' setback requirement.

Attached to this memo are drafts of the recommended changes to each of these sections. The Commission should review each of the proposed changes and advise staff regarding any questions or issues that they have with any of the draft ordinances. If the Commission is in agreement with each of the proposed ordinances, staff will proceed to schedule the citizen review session by first posting a notice regarding these proposed changes on the Town's website. This notice must be posted ten days prior to the date that the Planning Commission will meet to discuss the proposed text amendments. Thereafter, the proposed text amendments will need to be scheduled for a public hearing, which should be done in mid-September, but will have to be at least 10 days after the citizen review session. Based on the current Commission calendar, the date of the Citizen Review meeting should be August 28th. Once the September meeting schedule becomes set, staff will prepare to have the appropriate notices published so as to have the public hearing scheduled in September.

Zoning Ordinance Changes Requiring More Study

In addition to the simpler changes noted above, the council has asked the Commission to study some more complex Zoning Ordinance matters that will merit more discussion and a reliance on Town staff and the Planning Commission members to come up with creative concepts and solutions. These sections of the Zoning Ordinance should be drafted in an ordinance format and make a recommendation to the Town Council by November 21, 2012. This second list includes:

- Article XII, Personal Wireless Service Facilities, Section 1204 - whether the two hundred foot (200') spacing requirement between cell tower equipment and residential structures should be modified, along with any other recommended changes with respect to the cell tower equipment provisions.
- Article II, Definitions, and Article XVIII, Assisted Living Homes - recommend new provisions related to non-traditional housing arrangements and home rental issues, including regulations related to boarding houses, "parolee homes," length of home rental restrictions, and group homes, including reasonable accommodation provisions.
- Article XXIV, Walls, Section 2415 - whether the requirement for removal of non-conforming walls when permits are issued for new or rebuilt homes should be modified.
- Article XXV, Signs - create clearer standards for signs on Special Use Permit properties and commercial non-conforming use properties and recommend other modifications to the sign regulations.

The Commission should discuss whether they agree with some of the concerns identified by staff and the Council relating to these four areas and discuss proposed solutions to some of these concerns, along with suggested research into these areas and preparation of draft ordinance language for the Commission to review. Once draft ordinances are prepared, they will need to be processed through both the Citizen Review and public hearing procedures noted above.

DOCUMENTATION ATTACHED

1. Draft Ordinance No. _____ amending Zoning Ordinance Section 904
2. Draft Ordinance No. _____ amending Zoning Ordinance Section 1102.2(B)
3. Draft Ordinance No. _____ amending Zoning Ordinance Section 1102.3
4. Draft Ordinance No. _____ amending Zoning Ordinance Section 1102.8
5. Draft Ordinance No. _____ amending Zoning Ordinance Section 2404

ORDINANCE NUMBER _____

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA AMENDING THE PARADISE VALLEY TOWN CODE, ZONING ORDINANCE SECTION 904. INCLUSION OF COMMON LANDS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

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

Section 1. Section 904. Inclusion of Common Lands of the Zoning Ordinance, is hereby amended (with deletions shown as ~~striketroughs~~ and additions shown in **bold type**):

Section 904. Inclusion of Common Lands.

Lands shall be set aside from the remainder of the tract for common use by all of the owners of the residential lots, in accordance with the provisions of this section, and such common lands shall be included in the gross acreage for purposes of computing the maximum number of lots authorized under this Article. Except in the case of bridle paths designated as such in the cluster plan, no animals other than domestic pets shall be permitted on common lands. Common lands shall be set aside only for the following uses:

1. Private recreational facilities, such as ~~golf courses~~ or swimming pools, which are limited to the use of the owners or occupants of the lots located within the tract, or their guests;
2. Parks and parkway areas, and areas which have natural features of scenic beauty worthy of preservation;
3. Bridle paths, **golf courses**, or hiking trails for the use of the owners of the said lots, or for the use of the general public.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 3. This ordinance shall take effect in the manner provided for by law.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this ____ day of _____ 2012.

Scott P. LeMarr, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew M. Miller, Town Attorney

CERTIFICATION

I, Duncan Miller, Town Clerk, certify that the foregoing is a true copy of Ordinance Number _____ duly passed and adopted by affirmative vote of the Town Council of Paradise Valley at a meeting held on the _____ of _____, 2012. Passage of this Ordinance appears in the minutes of the meeting. The Ordinance 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 Ordinance.

Duncan Miller, Town Clerk

ORDINANCE NUMBER _____

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA AMENDING THE PARADISE VALLEY TOWN CODE, ZONING ORDINANCE SECTION 1102.2(B) USES PERMITTED; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. Section 1102.2(B) Uses Permitted, are hereby amended (with deletions shown as ~~strikethroughs~~ and additions shown in **bold type**):

Section 1102.2. Uses Permitted.

The following buildings, structures, or uses may be authorized by a Special Use Permit issued in accordance with the procedures set forth in this Article:

- A. Resorts
- B. Medical Offices, **Kennels and Veterinary Clinics**
- C. Religious Facilities, Private Schools, Non-Profit Organizations, and Public/Quasi Public Structures
- D. Country Clubs and Golf Courses
- E. Utility poles and Wires
- F. Guardhouses, Gatehouses, and Access Control Gates
- G. Amateur Radio Antennas

A. Resorts

1. Definition

A resort is a facility, operated under a single unified management structure, containing guest units primarily for the temporary residency of persons in a physical setting that provides a high level of guest amenities, recreational opportunities and a quality of design that may include architectural features, extensive open space and landscaping.

2. Allowed uses

- a. The primary use in a resort is guest units, including facilities necessary for administering and servicing the facility and on site parking.
- b. Accessory uses may include:

- i. Indoor or outdoor recreation facilities, including but not limited to swimming pools and spa or fitness facilities, tennis and other ball courts, golf courses and equestrian facilities.
- ii. Retail sales, so long as they are primarily for the support and service of guests or visitors to functions at the site.
- iii. Office and business services so long as they are primarily for the support and service of guests or visitors to functions at the site.
- iv. Restaurants, banquet rooms and food service facilities which may include live music, entertainment and dancing.
- v. Meeting and public assembly facilities.
- vi. Dwelling units.
- vii. Any other resort-related use specifically approved in a Special Use Permit

3. Signs

All signs shall comply with Article XXV, Signs, or as may have been previously specified in a particular Special Use Permit.

B. Medical Office, Kennels and Veterinary Clinics ⁶³³

1. Definition

A medical office, including a medical clinic, consists of a building or part of a building used solely for the purpose of consultation, diagnosis, and treatment of patients by one or more legally qualified physicians, dentists, optometrists, chiropodists, chiropractors, osteopaths, and occupational therapists, together with their qualified assistants, and without limiting the generality of the foregoing, the building may include reception areas, administrative offices, waiting rooms, consultation and treatment rooms, minor operating rooms, pharmacies and dispensaries directly associated with the medical office/clinic. **A kennel, including a veterinary clinic, consists of a building or a part of a building used for reception areas, administrative offices, waiting rooms, play areas and animal retaining/caging units, consultation and treatment rooms, minor operating rooms, and rooms for the diagnosis and treatment of animals by one or more legal qualified veterinarians, together with their qualified assistants.**

2. Allowed uses

- a. Offices for medical practitioners and veterinarians; and kennel uses.
- b. Outpatient surgical facilities where patient stays do not exceed 48 hours.
- c. Medical laboratories.
- d. Physical therapy facilities.
- e. Pharmacies, subject to specific approval of such use by the terms of an approved Special Use Permit, and pursuant to the following restrictions:
 - i. There shall be no external signage for a pharmacy other than a tenant identification sign for the surrounding medical office SUP complex.
 - ii. Addition of a pharmacy use within a Medical Office Special Use Permit Zone shall be permitted only upon the approval of an Intermediate Amendment to the Special Use Permit as provided for in Section 1102.7(C).
 - iii. Hours of operation shall be not earlier than 8:00 a.m. and not later than 6:00 p.m. – Monday through Saturday.
- f. Medical Marijuana Dispensaries, subject to the following restrictions:
 - i. The number of medical marijuana dispensaries within the Town of Paradise Valley shall be limited to no more than one within the boundaries of the Town. Said dispensary shall be allowed only in the Medical Office SUP District and only upon the approval of an Intermediate Amendment to a Special Use Permit.
 - ii. The minimum requirements of this section shall apply to all applications for a medical marijuana dispensary use in a SUP Medical Office District as well as proof of compliance with all DHS regulations related to medical marijuana dispensaries.
 - iii. In addition to the foregoing requirements, applicants for a medical marijuana dispensary shall provide the following:
 - (1) Copy of the operating procedures adopted in compliance with A.R.S. § 36-2804(B)(1)(c).
 - (2) Proof of a valid registration certificate and identification number from DHS for the dispensary and its board members and agents.
 - (3) A security plan showing a floor plan, type and description of and specifications for security measures that the medical marijuana

dispensary will use to secure, enclose and lock the dispensary as required by State law and DHS regulations.

(4) Exterior site and parking plan.

iv. Additional Regulations and Standards for Medical Marijuana Dispensaries

(1) Prior to Town approval of the occupancy of any tenant or operator of a medical marijuana dispensary, the owner of the medical office complex shall submit for Town Manager review and approval criminal background information and releases regarding the prospective tenant and all employees to be hired by the tenant; audited financial statements evidencing that the entities or persons who will own or operate the medical marijuana dispensary have adequate assets, financing, and net worth to appropriately fund a safe and secure medical marijuana; and detailed operations evidencing appropriate policies, protocols and operations procedures to ensure that the medical marijuana dispensary will run and operate in a safe and secure manner.

(2) Medical marijuana dispensaries shall be limited to the use of dispensing medical marijuana products, and shall be prohibited from any other or related use such as a bookstore, spa, restaurant, or coffee shop.

(3) No drive-through service shall be allowed at any medical marijuana dispensary.

(4) No on-site consumption of any product containing medical marijuana shall be allowed at any medical marijuana dispensary.

(5) Medical marijuana dispensaries located within the Town of Paradise Valley shall be prohibited from making any home deliveries of marijuana.

(6) Medical marijuana dispensaries shall be prohibited from offering free or discounted samples of their merchandise.

(7) Means of preventing smoke, odors, debris, dust fluids and other substances from exiting a medical marijuana dispensary shall be provided.

(8) No minors, under 21 years of age, are permitted within a medical marijuana dispensary unless accompanied by a parent or guardian.

(9) No youth activities, including, but not limited to, outdoor basketball hoop structures, playgrounds, and skate parks, shall be permitted on the same medical office complex site that has an approved medical marijuana dispensary use.

(10) If the State prohibits any medical marijuana dispensary within the Town, any Amendment to a Special Use Permit adding a medical marijuana dispensary use shall be deemed immediately revoked by operation of law. The underlying Special Use Permit shall remain.

(11) A medical marijuana dispensary shall be at least 1,500 feet from the following existing uses, as measured within the Paradise Valley municipal limits only: (a) educational institutions (b) places of worship (c) parks and recreational facilities (d) youth centers; and at least 5,280 feet from any other medical marijuana dispensary, as measured within the Paradise Valley municipal limits only. Measurements are taken from nearest property lines of the medical office use and each of the uses noted above. The location of the dispensary shall optimize distance from residentially zoned property. Residential spacing shall be the primary consideration for all reviews of intermediate SUP amendment applications for medical marijuana dispensaries.

(12) A medical marijuana dispensary shall have operating hours not earlier than 8:30 a.m. and not later than 2:30 p.m. – Monday through Friday or as prescribed in an intermediate Special Use Permit amendment.

(13) There shall be no external signage including, but not limited to, any special event signage, for a medical marijuana dispensary other than a tenant identification sign for the surrounding medical office SUP complex, and no symbols, representations, or slang for the word “marijuana” or its components shall be used on any external signage.

(14) All activity related to medical marijuana dispensaries shall be conducted in compliance with Arizona Revised Statutes, Title 36, A.R.S. § 36-2801 et seq., DHS rules and regulations and other implementing state statutes and administrative regulations.

(15) An SUP amendment for a medical marijuana dispensary shall not become effective until the owner of a Medical Office SUP District property has completed all DHS requirements and obtained a license.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town Code adopted herein by

reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 3. This ordinance shall take effect in the manner provided for by law.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this _____ day of _____ 2012.

Scott P. LeMarr, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew M. Miller, Town Attorney

CERTIFICATION

I, Duncan Miller, Town Clerk, certify that the foregoing is a true copy of Ordinance Number _____ duly passed and adopted by affirmative vote of the Town Council of Paradise Valley at a meeting held on the ___ of May, 2012. Passage of this Ordinance appears in the minutes of the meeting. The Ordinance 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 Ordinance.

Duncan Miller, Town Clerk

ORDINANCE NUMBER _____

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA AMENDING THE PARADISE VALLEY TOWN CODE, ZONING ORDINANCE SECTION 1102.3. CREATING A SPECIAL USE PERMIT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

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

Section 1. Section 1102.3 Creating a Special Use Permit of the Zoning Ordinance, is hereby amended (with deletions shown as ~~strikethroughs~~ and additions shown in **bold type**):

Section 1102.3. Creating a Special Use Permit

C. Application and Approval Procedures for Special Use Permits

5. Special Use Permit Submittal Requirements; Review Process; and Review/Approval Criteria

a. An applicant for a Special Use Permit shall submit ~~the following information and any other~~ plans or studies deemed necessary or appropriate by the Town, **which may vary depending on the type and extent of any Special Use Permit or amendment to a Special Use Permit being requested. Said plans and studies may include the following; and any other plans or studies deemed necessary and appropriate by the Town:**

i. A legal description of the parcel, including gross and net acreage. A recent American Land Title Association/American Congress on Surveying & Mapping (ALTA/ACSM) survey may be required if deemed necessary by the Town for a thorough review of the application.

ii. A project narrative which shall include statements on: uses proposed on the property; site development phasing; architectural design philosophy; compatibility with adjoining properties; environmental impacts; water flow and pressure impacts, site access, parking and circulation; conformity with the Town's development standards and guidelines and any deviation from such standards or

guidelines; and, ownership, maintenance, and management of common facilities and areas including open space.

- iii. Site plan depicting location and type of all improvements and any additional information as needed, including:
 - 1) Perimeter setbacks
 - 2) On-site parking
 - 3) Points of access
 - 4) Common areas
 - 5) Location of walls
 - 6) Internal circulation
 - 7) Density and intensity of uses and structures
 - 8) Lot coverage
 - 9) Floor Area
- iv. Building plans including, schematic floor plans, building elevations and heights, an analysis of the Open Space Criteria, architectural style and details, and exterior building materials and colors.
- v. Landscaping Plan.
- vi. Lighting Plan with photometric study.
- vii. Signage Plan.
- viii. Grading plans and drainage study. Grading plans including location and proposed treatment of sloped and retention areas; calculations and maintenance responsibilities, significant topographical features of the site, and areas of the site subject to flooding.
- ix. Traffic study to address the impact of the project on adjacent properties and roadway system, internal circulation and parking analysis, and any necessary roadway dedication and improvement.
- x. Noise study to evaluate the compatibility of the proposed project with surrounding areas.
- xi. Timing and phasing of development.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any

court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 3. This ordinance shall take effect in the manner provided for by law.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this ____ day of _____ 2012.

Scott P. LeMarr, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew M. Miller, Town Attorney

CERTIFICATION

I, Duncan Miller, Town Clerk, certify that the foregoing is a true copy of Ordinance Number ____ duly passed and adopted by affirmative vote of the Town Council of Paradise Valley at a meeting held on the ____ of _____, 2012. Passage of this Ordinance appears in the minutes of the meeting. The Ordinance 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 Ordinance.

Duncan Miller, Town Clerk

ORDINANCE NUMBER _____

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA AMENDING THE PARADISE VALLEY TOWN CODE, ZONING ORDINANCE SECTION 1102.8 APPLICATION AND APPROVAL PROCESS FOR AMENDMENTS TO SPECIAL USE PERMITS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

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

Section 1. Section 1102.8 Application and Approval Process for Amendments to Special Use Permits of the Zoning Ordinance, is hereby amended (with deletions shown as ~~strikethroughs~~ and additions shown in **bold type**):

Section 1102.8 Application and Approval Process for Amendments to Special Use Permits

The application process for an amendment to a Special Use Permit is comprised of two phases. Phase I is the application submittal process, in which the applicant and Town staff work together to create a complete application. Phase II consists of the formal project review. [Please also refer to Figure 1102.4-1 for an overview of the review process.]

B. Minor Amendments

1. The applicant must first complete the pre-application review process in accordance with Section 2-5-2(E) of the Town Code. A formal application can then be made to the Town in accordance with Section 1102.3 of this Article. The Planning Commission shall review all applications for Minor Amendments to determine whether they meet the criteria for Minor Amendments as defined. An application submitted as a Minor Amendment but determined by the Planning Commission to be an Intermediate or Major Amendment shall have to be resubmitted by the applicant as an Intermediate or Major Amendment. The Commission shall hold a public hearing on Minor Amendments to determine whether the granting of the amendment would serve the public health, safety or welfare of the Town and whether the requirements of this article are met. Notice of the public hearing, in the same manner as required in Section 1102.3 of this article, shall be given.
2. ~~Minor Amendments shall be appended to the site plan in the form of an attachment to existing exhibits, and shall not require Town council approval.~~
The Town Council shall have the authority to hear and decide appeals from the action of the Planning Commission in the granting or denying of

a Minor Amendment, or appealing any requirement imposed by the Planning Commission as a condition of approval of a Minor Amendment.

An appeal from a decision made by the Planning Commission may be taken within 15 days by an aggrieved person on a form provided by the Community Development Department and shall specify the basis of the appeal.

An appeal shall be heard by the Town Council de novo. The concurring vote of a majority of members present and not otherwise disqualified shall be necessary to reverse or modify a requirement or decision of the Planning Commission, otherwise such requirement or decision shall be affirmed.

The Town Council shall fix a reasonable time for its hearings and give notice thereof to the parties in interest and the public by publishing notice in a newspaper of general circulation in the Town of Paradise Valley, giving at least fifteen days' notice of such hearing; and by posting the subject property at least seven days prior to the hearing.

- 3. Minor Amendments shall be appended to the site plan in the form of an attachment to existing exhibits, and shall not require Town Council approval.**

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 3. This ordinance shall take effect in the manner provided for by law.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this _____ day of _____ 2012.

Scott P. LeMarr, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew M. Miller, Town Attorney

CERTIFICATION

I, Duncan Miller, Town Clerk, certify that the foregoing is a true copy of Ordinance Number ____ duly passed and adopted by affirmative vote of the Town Council of Paradise Valley at a meeting held on the ____ of _____, 2012. Passage of this Ordinance appears in the minutes of the meeting. The Ordinance 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 Ordinance.

Duncan Miller, Town Clerk

ORDINANCE NUMBER _____

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA AMENDING THE PARADISE VALLEY TOWN CODE, ZONING ORDINANCE SECTION 2404 HEIGHT AND SETBACK REGULATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

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

Section 1. Section 2404 Height and Setback Regulations, is hereby amended (with deletions shown as ~~strike throughs~~ and additions shown in **bold type**):

Section 2404. Height and Setback Regulations:

a. Height Regulations

1. In General.

The height of walls and view fences shall be measured vertically from the finished grade on the exterior side of the wall or view fence. Raising the finished grade by placing fill solely for the purpose of adding additional height to a wall or view fence is prohibited. If a wall or view fence is placed on a berm, the height shall be measured vertically from the base of the berm.

2. Adjoining Local, Collector, and Minor Arterial Streets.

The maximum height of a wall and view fence, including the berm, adjoining a local, collector, and minor street shall not exceed six (6) feet, further provided that no portion of the wall or view fence located between the ten- (10) foot and forty- (40) foot front yard setback shall exceed three (3) feet, except for a single entry gate and columns as permitted under Section 2413. See Table 2404A for additional criteria.

3. Adjoining Major Arterial Streets.

The maximum height of a wall and view fence, including the berm, adjoining a major arterial street shall not exceed eight (8) feet. The maximum exposed vertical wall or view fence element from the exterior side of the property shall be no more than six (6) feet, except for a single entry gate and columns as permitted under Section 2413. See Table 2404A for additional criteria.

4. Adjoining Non-Residential Properties Other Than Along A Right-Of-Way

The maximum height of a wall and view fence, including the berm, between a residential property and an adjoining non-residential property, other than a right-of-way, shall not exceed eight (8) feet. When such a wall is adjoining or visible from a right-of-way and/or open space area, it shall complement the architectural character of the main house, and shall have a finish texture, color, and material on both sides compatible with the primary building on-site, or as determined by the town. See Table 2404A for additional criteria.

b. Setbacks Regulations

1. In General.

Setbacks for a wall or view fence will vary depending on whether it is a) adjoining a right-of-way or other property; b) adjoining a major arterial or other street classification; c) located in the front yard or other sides of the lot; d) considered a wall or a view fence; or e) meandering and based on the amount of meander utilized in the wall's construction. Walls or view fences not adjoining a public or private right-of-way may be built at or on the property lines with no setback requirement. See Table 2404A and B for additional criteria.

2. Adjoining Local, Collector, and Minor Arterial Streets.

Solid walls or view fences located in the front yard of a lot adjoining local, collector, or minor arterial streets that exceed three (3) feet in height shall be setback at least forty (40) feet from the right-of-way property line. View fences located in the front yard of a lot adjoining local, collector, or minor arterial streets that are six (6) feet in height or less shall be setback at least ten (10) feet from the right-of-way property line. Walls or view fences located in the front yard of a lot adjoining local, collector, or minor arterial streets that are three (3) feet in height or less shall be setback at least ten (10) feet from the right-of-way property line, except for the area allotted to an entry gate, as permitted under Section 2413, may be greater than the three foot height limitation. Walls located in the rear or side yard of a lot adjoining local, collector, or minor arterial streets, regardless of whether they exceed three feet in height, shall be setback at least twenty (20) feet from the right-of-way property line; however, a view fence may be constructed at a ten (10) foot setback, or a meandering wall may be constructed at an average fifteen (15) foot setback, provided they meet the criteria set forth in this article and Table 2404A. See Table 2404A for additional criteria.

3. Adjoining Major Arterial Streets.

Walls adjoining major arterial streets shall be setback at least twenty (20) feet from the right-of-way property line; however, a view fence may be constructed at a ten (10) foot

setback or a meandering wall may be constructed at an average fifteen (15) foot setback provided they meet the criteria set forth in this article and Table 2404 A.

c. Additional Criteria for Meandering Walls.

Meandering walls shall maintain an average setback of not less than fifteen (15) feet, said average to be determined by comparing the area between the ten (10) and the fifteen (15) foot setback area (noted as Area "A" on Figures 2404-A through -C) with the area encroaching between the fifteen (15) and the twenty (20) foot setback area (noted as Area "B" on Figures 2404-A through -C) such that the area located between the ten (10) and the fifteen (15) foot setback area shall be equal to or less than the area located between the fifteen (15) and twenty (20) foot setback area. Walls that have no significant meander and that are configured to meet the criteria set forth herein solely for the purpose of moving to a fifteen (15) foot setback are impermissible. See Tables 2404A and 2404B for additional criteria.

Table 2404A summarizes many of the regulations relating to height and setback regulations for walls, meandering walls, and view fences; and sets forth additional criteria related to these structures. Table 2404B sets forth additional criteria for meandering walls.

TABLE 2404A – SETBACK AND HEIGHT REGULATIONS FOR WALLS / VIEW FENCES

<i>FRONT YARD ALONG RIGHTS-OF-WAY</i>			
STREET TYPE	TYPE OF WALL OR FENCE	SETBACK FROM PROPERTY LINE, FEET	MAXIMUM HEIGHT, FEET
Major	View Fence	10, Minimum	**8, including berm
	Meandering Wall	15, Average	**8, including berm
	All Others	20, Minimum	**8, including berm
Local, Collector, Minor	Any	10, Minimum	3
	View Fence	10, Minimum	6
	Any Solid Wall/Fence	*40, Minimum	6
<i>SIDE OR REAR YARD ALONG RIGHTS-OF-WAY</i>			
Major	View Fence	10, Minimum	**8, including berm
	Meandering Wall	15, Average	**8, including berm
	All Others	20, Minimum	**8, including berm
Local, Collector,	View Fence	10, Minimum	6

Minor	Meandering Wall	15, Average	6
	All Others	20, Minimum	6
SIDE OR REAR YARD INTERIOR (not along any right-of-way)			
Not applicable	Any	None Required	6
SIDE OR REAR YARD INTERIOR (adjoining non-residential property other than a right-of-way)			
Not applicable	Any	None Required	**8, including berm

* In R-18A Zoning Districts, the front yard setback along local, collector, or minor streets is minimum 35 feet.

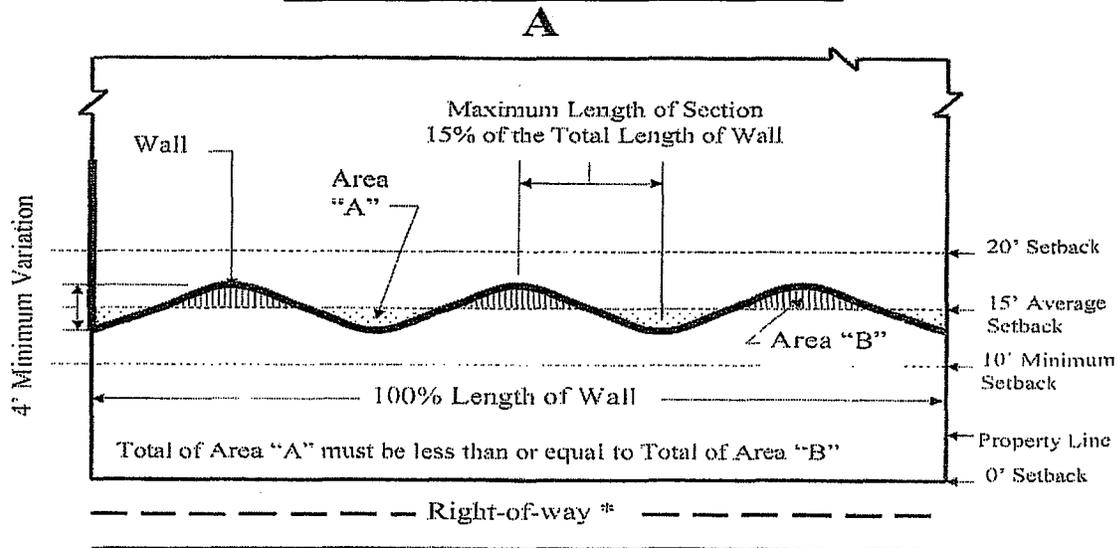
In R-10 Zoning Districts, the front yard setback along local, collector, or minor streets is minimum 20 feet, or as shown on the recorded plat, or as existing at the time of annexation.

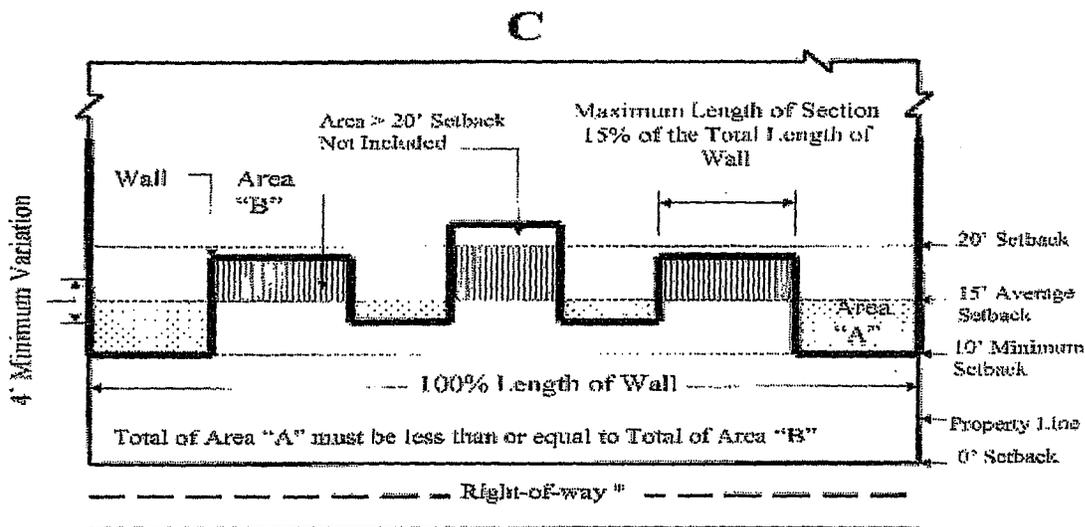
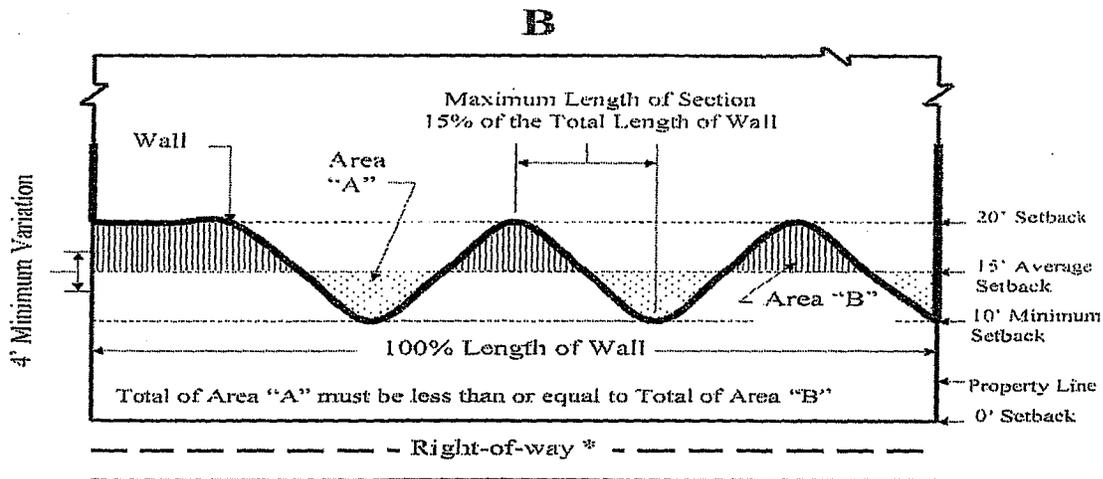
** Refer to Section 2404(a) for details

TABLE 2404B – ADDITIONAL MEANDERING WALLS CRITERIA

Minimum setback from property line	10 feet
Minimum variation offset from average setback	4 feet
Maximum length of any single section meandering between the 10' and 20' setback	15% of total wall length
Maximum setback area allowed in determining meandering setback	20 feet

FIGURE 2404 – MEANDERING WALLS





* Major Arterial Roadway along the Front or Side or Rear Yard. Or, Local, Collector, or Minor Arterial Roadway along the Side or Rear Yard

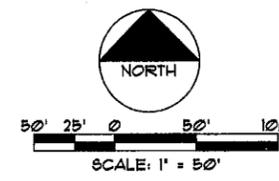
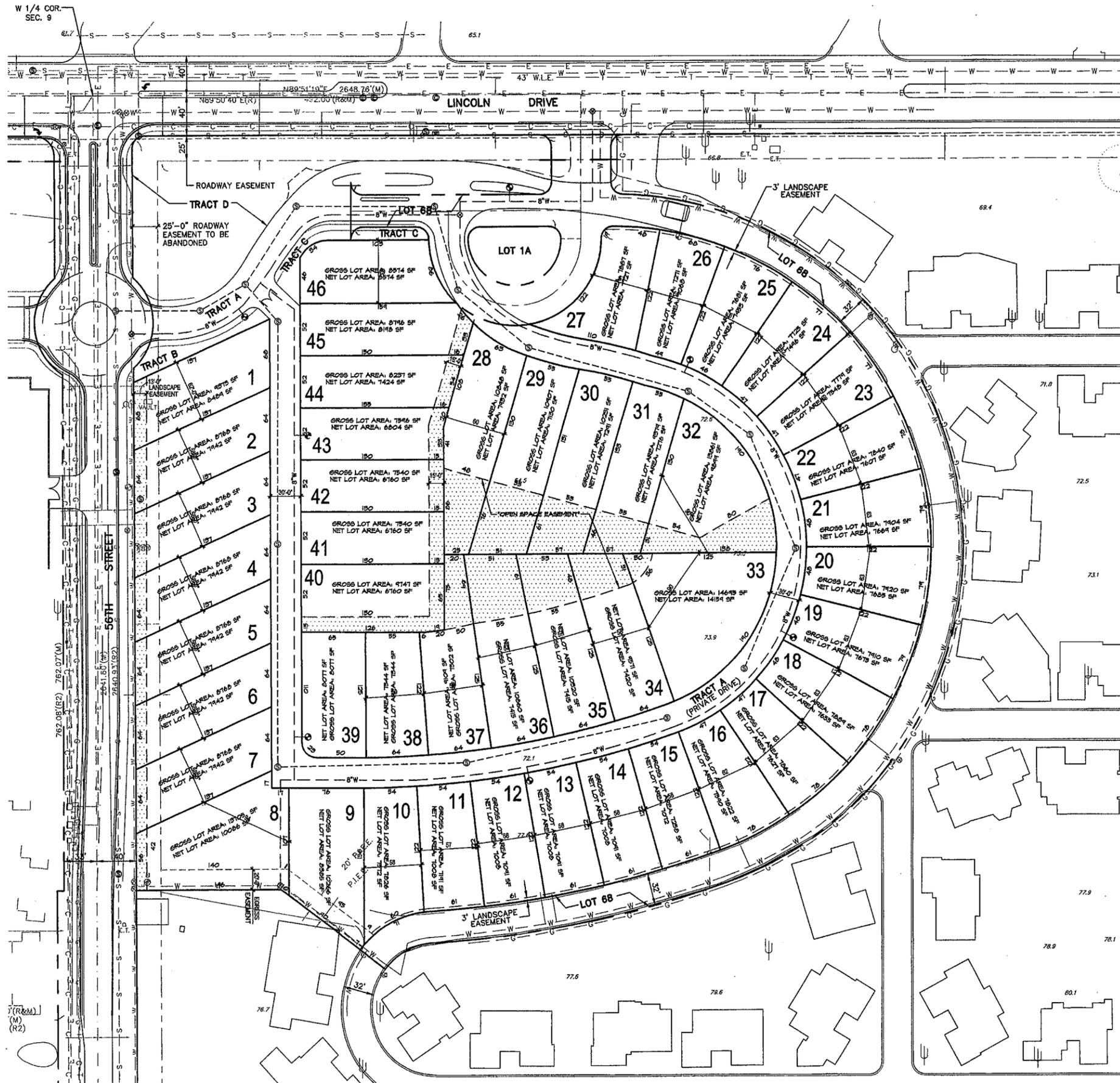
Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 3. This ordinance shall take effect in the manner provided for by law.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this ____ day of _____ 2012.

Scott P. LeMarr, Mayor

P:\East Side Pre Plat Sketch\FE-PRE-PLAT-07-2012\536-15-plot-02.dwg 7/25/2012 9:15:05 AM UNST



<p>MOUNTAIN SHADOWS</p> <p>FLEET • FISHER ENGINEERING INC.</p> <p>4250 EAST CAMELBACK RD., SUITE 410K • PHOENIX, ARIZONA 85008 • PH. (602) 264-3335</p>	
<p>DESIGNED: FFE DRAINED: FFE CHECKED: CRB DATE: JULY 2012</p>	<p>NO. DATE REVISIONS</p>
<p>PRELIMINARY PLAT</p>	
<p>SHEET 2 OF 2</p>	
<p>JOB NO. 536-15</p>	