

ORDINANCE NO. 2021-1494

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 254.5 GROSS ACRES LOCATED ON THE EAST SIDE OF ESTRELLA PARKWAY, BETWEEN W. GOODYEAR BOULEVARD S. AND BULLARD AVENUE TO AMEND CERTAIN RES CATEGORY MULTI-FAMILY DEVELOPMENT STANDARDS IN THE RESTATED & AMENDED FINAL PLANNED AREA DEVELOPMENT FOR BALLPARK VILLAGE & BALLPARK VILLAGE - SOUTH; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR, PROVIDING FOR NON-ABRIDGMENT, CORRECTIONS, SEVERABILITY, AN EFFECTIVE DATE, AND PENALTIES.

WHEREAS, on May 29, 2007, the City Council of the City of Goodyear, in the manner prescribed by law, adopted Ordinance No. 07-1073 conditionally approving the rezoning (05-200-00017) of approximately 242 acres of property for the purpose of establishing the Wood Corporate Campus and Ballpark Village Final Planned Area Development (PAD) and Design Guidelines; and

WHEREAS, on May 8, 2017, the City Council of the City of Goodyear, in the manner prescribed by law, adopted Ordinance No. 17-1347 conditionally approving the rezoning (16-210-00004) of approximately 254.5 acres of property generally located on the east side of Estrella Parkway between as shown on Exhibit A Supplementary Zoning Map No. 20-03A, and as more specifically described in Exhibit B Legal Description, which documents were declared a public record by Resolution 2021-2130 and which are referred to and incorporated herein by this reference (the "Property") for the purpose of establishing the Restated & Amended Final Planned Area Development for Ballpark Village & Ballpark Village - South; and

WHEREAS, this request is intended to amend certain of the RES category multi-family development standards of the Restated & Amended Final Planned Area Development for Ballpark Village & Ballpark Village - South; and

WHEREAS, specifically, the request would revise the density range in the RES-1 and RES-2 multi-family residential categories from 5-10 & 6-15 dwelling units/acre, respectively, to 5-30 dwelling units/acre in both categories, and would increase the maximum building height in the RES-1 and RES-2 multi-family residential categories from 42 feet to 46 feet; and

WHEREAS, City staff finds that the proposed amendment will not adversely impact the surrounding area as the one proposed density range does not exceed the highest of the three existing ranges, and the reduced maximum building height is more appropriate for multi-family residential development; and

WHEREAS, the Restated & Amended Final Planned Area Development for Ballpark Village & Ballpark Village – South, dated November 23, 2020, which was declared a public record by Resolution 2021-2130 and which is referred to and incorporated herein by this reference, is a restatement of the Restated & Amended Final Planned Area Development for Ballpark Village & Ballpark Village – South dated April 28, 2017 adopted by Ordinance 2017-1347 with the changes referred to herein; and

WHEREAS, a request to rezone property requires public review by the Planning and Zoning Commission and public review and approval by the City Council; and

WHEREAS, public notice that this amendment to the Restated & Amended Final Planned Area Development for Ballpark Village & Ballpark Village – South was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on February 10, 2021, appeared in the Arizona Republic Southwest Valley edition on January 22, 2021; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on February 10, 2021, and at that meeting the Commission voted 4 to 2 to recommend approval of the proposed amendment; and

WHEREAS, public notice that this amendment to the Restated & Amended Final Planned Area Development for Ballpark Village & Ballpark Village – South is to be considered and reviewed at a public hearing held before the City Council on February 22, 2021 appeared in the Arizona Republic Southwest Valley edition on January 22, 2021; and

WHEREAS, the Mayor and Council of the City of Goodyear find the adoption of this Ordinance to be in the best interests of the public interest, health, comfort, convenience, safety and general welfare of the citizens of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. PLANNED AREA DEVELOPMENT AMENDMENT

That a parcel of land in Goodyear, Maricopa County, Arizona, generally located on the east side of Estrella Parkway between W. Goodyear Boulevard S. and Bullard Avenue, as shown on Exhibit A Supplementary Zoning Map No. 20-03A, and as more specifically described in Exhibit B Legal Description, which documents were declared a public record by Resolution 2021-2130 and which are referred to and incorporated herein by this reference (the “Property”) is hereby conditionally rezoned by amending the existing PAD (Planned Area Development) enacted by Ordinance No. 2017-1347 by adopting that certain document titled Restated & Amended Final Planned Area Development for Ballpark Village & Ballpark Village – South dated November 23, 2020, which document was declared a public record by Resolution 2021-2130 and which is referred to and incorporated herein by this reference.

SECTION 2. STIPULATIONS

That the rezoning provided for herein is subject to all of the following stipulations and conditions:

1. Development of the Property shall be in substantial conformance with the Restated & Amended Final Planned Area Development for Ballpark Village & Ballpark Village – South, dated November 23, 2020, which

document was declared a public record by Resolution 2021-2130 and which is referred to and incorporated herein by this reference, including the concept plans, development standards and design guidelines contained therein except as otherwise provided by any stipulations herein.

2. The provisions of the City of Goodyear Zoning Ordinance shall apply unless otherwise modified by this Final PAD.
3. Except for the terms in Section 5.1 of the Amended and Restated Development Agreement Ballpark Village (North Parcel) recorded in the official records of Maricopa County as instrument 2012 0724688 (“Section 5.1”), which requires the development of parking facilities for private development in accordance with the parking requirements of the Zoning Ordinance, nothing in the rezoning provided herein shall be construed or considered to amend or affect the terms and conditions of the Settlement Agreement and Release dated July 6, 2011 and the exhibits thereto by and between M&I Marshall & Ilsley Bank, M&I Regional Properties, LLC, and the City, as amended on August 1, 2012, by Amendment No. 1 to Settlement Agreement and Release by and between BMO Harris Bank, Successor by Merger to M&I Marshall & Ilsley Bank, M&I Regional Properties, LLC, and the City, and the Settlement Agreement dated March 5, 2012, by and between MPK Enterprises, Inc., Wood Family Enterprises Ltd., Swansea Properties, LLC, Eagletail Bighorn, LLC, Margaret M. and Shelby A. Carl, Sharon M. and Ken R. Wood, Clarence Wood, M&I Regional Properties, LLC, BMO Harris Bank, Successor by Merger to M&I Marshall & Ilsley Bank and the City or any terms of any conveyance document or agreement to which the City is a party related to parking to support the Ballpark and the Ballpark Development Complex. Section 5.1 no longer has any effect because the parking requirements for Ballpark Village have been amended by Ballpark Village & Ballpark Village - South Restated & Amended Final PAD dated November 23, 2020.
4. Notwithstanding anything to the contrary in the Restated & Amended Final Planned Area Development for Ballpark Village & Ballpark Village – South, dated November 23, 2020 or the stipulations herein, City parking standards for residential development shall apply within the RES category unless the Mayor and Council of the City of Goodyear approves a zoning amendment to amend such standards pursuant to a third party parking consultant’s data based study and letter of recommendation supporting lower parking/dwelling unit ratios and/or parking related design standards that has been approved by the Zoning Administrator.
5. Notwithstanding anything to the contrary in the Restated & Amended Final Planned Area Development for Ballpark Village & Ballpark Village – South, dated November 23, 2020, a drive-through may be considered through a use permit subject to the following conditions:

- a. The drive-through is limited to a business that has coffee, tea, or other beverages as its primary product.
- b. The drive-through may only be considered on lots 28 – 30 north of Lower Buckeye Parkway, on the east side of Estrella Parkway.
- c. No curb cuts are allowed onto Estrella Parkway.
- d. A patio that is scaled to the size of the building must be a prominent feature toward Estrella Parkway or the Ballpark.
- e. The drive-through window and ordering menu board may not face Estrella Parkway.
- f. The drive-through drive aisle may not be located between the building and Estrella Parkway; it must be located to the rear of the building; and it must not be substantially visible from Estrella Parkway.
- g. Enhanced architectural design and landscaping must be provided on the site, as determined by the Zoning Administrator during the use permit review.
- h. Enhanced pedestrian connections shall be provided to connect the Ballpark site and nearby residential property, as determined by the Zoning Administrator during the use permit review.

SECTION 3. AMENDMENT TO ZONING MAP

The Zoning Map of the City of Goodyear is hereby amended to reflect the rezoning set forth in Section 1 of this Ordinance by the adoption of Supplementary Zoning Map 20-03A a copy of which is attached hereto as Exhibit A and legally described in Exhibit B, and such amendment to the Zoning Map shall be filed with the City Clerk in the same manner as the Zoning Map of the City of Goodyear.

SECTION 4. ABRIDGMENT OF OTHER LAWS

Except where expressly provided, nothing contained herein shall be construed to be an abridgement of any other ordinance, regulation, or requirement of the City of Goodyear.

SECTION 5. CORRECTIONS

The Zoning Administrator, City Clerk, and the codifiers of this Ordinance are authorized to make necessary clerical corrections to this Ordinance, including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

SECTION 6. SEVERABILITY

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

SECTION 7. EFFECTIVE DATE

This Ordinance shall become effective as prescribed by law. The provisions of the City of Goodyear Zoning Ordinance being amended by this ordinance shall remain in full force and effect until the effective date of this ordinance.

SECTION 8. PENALTIES

Any person who violates and provision of this ordinance shall be subject to penalties set forth in Section 1-2-3 of the City of Goodyear Zoning Ordinance as it may be amended from time to time and which currently provides:

Section 1-2-3 Violations and Penalties

- A. It is unlawful to construct, erect, install, alter, change, maintain, use or to permit the construction, erection, installation, alteration, change, maintenance, or use of any house, **building, structure**, sign, landscaped area, **parking lot** or fence, or to permit the use of any **lot** or land contrary to, or in violation of any provisions of this **Ordinance**, or of any conditions, stipulations or requirements included as a condition of any applicable approval. Any land **use** that is specifically prohibited by this **Ordinance** or is unspecified and not classified by the **Zoning Administrator** is prohibited in any **district**.
- B. Responsible Party. The responsible party for any violations hereunder is the owner of personal property improvements or real property and/or person in possession or control of any personal property improvements or real property (**Person**). The responsible party shall be responsible for any violations hereunder whether or not the responsible party or its agent committed the prohibited act(s) or neglected to prevent the commission of the prohibited act(s) by another.
- C. Every Responsible Party shall be deemed responsible or guilty of a separate offense for each and every day during which any violation is committed or continued.
- D. Penalty. Any **Person** who violates any of the provisions of this **Ordinance** and any **amendments** there to and/or any conditions, stipulations or requirements included as a condition of any applicable approval shall be:
 - 1. Subject to civil sanctions of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) per offense; or

2. Guilty of a class 1 misdemeanor, punishable by a fine not exceeding two thousand five hundred dollars (\$2,500), or by a term of probation not exceeding three (3) years, or imprisonment for a term not exceeding six (6) months, or punishable by a combination of fine, probation or imprisonment. The City Prosecutor is authorized to file a criminal misdemeanor complaint in the City of Goodyear Municipal Court for violations hereunder.

PASSED AND ADOPTED by the Mayor and Council of the city of Goodyear, Maricopa County, Arizona, this _____ day of _____, 20_____.

Georgia Lord, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney

