

ORDINANCE NO. 2021-1497

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 1,060 ACRES GENERALLY LOCATED EAST OF PERRYVILLE ROAD, SOUTH OF INDIAN SCHOOL ROAD, WEST OF CITRUS ROAD, NORTH OF MCDOWELL ROAD; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR NON-ABRIDGMENT, CORRECTIONS, SEVERABILITY, AN EFFECTIVE DATE, AND PENALTIES.

WHEREAS, this ordinance applies to approximately 1,060 acres located east of Perryville Road, south of Indian School Road, west of Citrus Road, and north of McDowell Road particularly described in that certain document entitled "Legal Description – ASLD Rezone" declared a Public Record by Resolution No. 2021-2140, and which is referred to and made a part hereof as if fully set forth herein (the "Property"); and

WHEREAS, the General Plan Land Use Plan designates a portion of the Property as Business and Commerce and a portion of the property as Industrial with a Luke Compatible Land Use Overlay. These land use category provides areas for the growth and development of commercial, industrial, and economic opportunities and protect Luke Air Force Base; and

WHEREAS, the Property was annexed in 1982 through the adoption of Ordinance 82-141; and

WHEREAS, the Property is currently zoned Agricultural (AG) which allows for commercial farming and other agricultural uses as well as low density residential uses; and

WHEREAS, the Luke Air Force Base Accident Potential Zone II (APZ II) and the high noise contours run through a portion of the property; and

WHEREAS, A.R.S. 28-8481 requires that cities with property within the high noise contours or accident potential zones adopt general plans for property in the high noise or accident potential zone to assure development compatible with the high noise and accident potential generated by military airport and ancillary military facility operations that have or may have an adverse effect on public health and safety; and

WHEREAS, Agricultural (AG) zoning is not compatible with the Luke Air Force Base Accident Potential Zones and high noise contours because residential uses are not compatible with these zones; and

WHEREAS, the proposed rezoning will rezone the Property to Planned Area Development (PAD) that will create specific permitted uses and development standards; and

WHEREAS, the PAD district is intended to accommodate, encourage and promote developments with innovative design involving residential and nonresidential land uses, which together form an attractive, harmonious unit in the community; and

WHEREAS, the PAD may include standards or criteria that differ from those regulations pertaining to other districts when warranted by circumstances such as but not limited to: alternative residential lot design, innovative architectural or subdivision design features, retirement housing, in-fill development involving a small or irregularly shaped parcel, or other circumstances found by the City through the PAD approval to merit departure from the regulations pertaining to other districts; and

WHEREAS, due to the impact of Luke Air Force Base on this property, the need to buffer nearby residential uses from the industrial uses, and the desire to develop the property as a unified business park or corporate campus, the use of PAD zoning and modified development standards is warranted; and

WHEREAS, the proposed zoning is in conformance with the General Plan and should not adversely impact the surrounding area; and

WHEREAS, as part of the citizen review process, a neighborhood meeting was held on February 16, 2021 in order to notify adjacent landowners of the application, inform adjacent landowners and other potentially affected citizens of the substance of the proposed rezoning, and give these adjacent landowners and other potentially affected citizens an opportunity to express any issues or concerns they may have with the proposed zoning; and

WHEREAS, public notice that this rezoning request would be considered and reviewed at a public hearing to be held before the Planning and Zoning Commission on March 10, 2021 appeared in the Arizona Republic Southwest Valley Edition February 19, 2021; and

WHEREAS, notices were mailed to adjoining owners on February 22, 2021 to advertise the March 10, 2021 Planning and Zoning Commission Meeting; and a sign was posted on the site on February 19, 2021 to advertise the March 10, 2021 Planning and Zoning meeting date; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on March 10, 2021 to consider the rezoning of the property to the Planned Area Development (PAD) district, subject to stipulations and the Commission voted (4-3) to recommend denial of the proposed rezoning; and

WHEREAS, public notice that this rezoning request would be considered and reviewed at a public hearing to be held before the Goodyear City Council on March 22, 2021 appeared in the Arizona Republic Southwest Valley Edition February 19, 2021; and

WHEREAS, notices were mailed to adjoining owners on February 22, 2021 to advertise the March 22, 2021 Goodyear City Council Meeting; and a sign was posted on the site on February 19, 2021 to advertise the March 22, 2021 Goodyear City Council meeting date; and

WHEREAS, the Mayor and Council of the City of Goodyear, Arizona find the adoption of this ordinance to be in the best interests of the public health, safety, and welfare.

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

SECTION 1. DESCRIPTION OF THE PROPERTY WITHIN REZONE

This Ordinance No. 2021-1497 applies to approximately 1,060 acres of land in Goodyear, Maricopa County, Arizona, generally located east of Perryville Road, south of Indian School Road, west of Citrus Road, and north of McDowell Road as depicted on that certain document titled "Official Supplementary Zoning Map No. 20-21 City of Goodyear, AZ – Rezone Case" and as legally described in that certain document titled "Legal Description – ASLD Rezone," both documents having been declared public records by Resolution No. 2021-2140 and which are referred to, adopted, and made a part hereof as if fully set forth herein (the "Property").

SECTION 2. ADOPTION OF FINDINGS

The clauses set forth above are hereby adopted and incorporated herein by this reference as if fully set forth herein.

SECTION 3. REZONING

The Property is conditionally rezoned from Agricultural (AG) to the Planned Area Development (PAD) Zoning District by the adoption herein of that certain document titled, "Arizona State Land Department PAD, dated March 11, 2021," which document was declared a public record by Resolution No. 2021-2140 and which is referred to, adopted, and made a part hereof as is fully set forth herein.

SECTION 4. STIPULATIONS

The rezoning and development of the Property is subject to all of the following stipulations and conditions:

1. The development of the Property shall comply with the development standards and requirements applicable to the Planned Area Development (PAD) Zoning District in the City of Goodyear Zoning Ordinance and the Arizona State Land Department PAD, dated March 11, 2021. If there are any conflicts between the requirements in the Planned Area Development (PAD) Zoning District in the City of Goodyear Zoning Ordinance and the Arizona State Land Department PAD, dated March 11, 2021, the terms of the Arizona State Land Department PAD, dated March 11, 2021 shall apply;
2. Master water, wastewater and drainage reports and a traffic impact study that meet the requirements of the City of Goodyear Engineering Design Standards and Policies shall be submitted to the city concurrent with the submittal of an application for the first preliminary plat, final plat, or site plan for the Property. Except as otherwise provided in a development agreement approved by the City Council, Developer shall, at

Developer's sole cost and expense, construct all infrastructure identified in the master reports and traffic impact study as being needed to support development of Property;

3. Developer shall dedicate, at no cost to the city, all rights-of-way and/or easements within the boundaries of the Property that are: (i) needed for the construction of infrastructure improvements required for the city to provide wastewater services to the Property; (ii) required to be dedicated under any applicable law, code, ordinance, rule, regulations, standards, guidelines governing the development of the Property including, but not limited to the City of Goodyear subdivision regulations, Building Codes and Regulations, and the City of Goodyear's Engineering Design Standards and Policies; (iii) required for the construction of improvements for which Developer is responsible for making in-lieu payments; (iv) required to be dedicated pursuant to any development agreement with the city regarding the development of the Property; (v) required for the construction of the infrastructure improvements to be constructed pursuant to the stipulations herein, and/or (vi) required public infrastructure improvements Developer is required to construct pursuant to any applicable law, code, ordinance, rule, regulations, standards, guidelines governing the development of the Property including, but not limited to the City of Goodyear subdivision regulations, Building Codes and Regulations, and the City of Goodyear's Engineering Design Standards and Policies. The rights-of-way to be dedicated shall be dedicated in fee and all rights-of-ways and easements shall be dedicated lien free and, unless otherwise agreed to by the city, free of all other easements or other encumbrances. Unless the timing of the required dedications is modified by any stipulation in this ordinance, the terms of a written development agreement approved by the City Council or a written phasing plan approved by the City Engineer or his designee, all dedications shall be made prior to or concurrent with recordation of a final plat that includes the area in which the dedicated property is located as required by the City Engineer or his designee;
4. Except as otherwise provided in a development agreement approved by the City Council, Developer shall, at no cost to the city, construct full half-street improvements except for half of medians and half of median landscaping for the roadways set forth below. Half-street Improvements are the improvements required in the Engineering Design Standards and Policies Manual for the applicable street designation (i.e. scenic, major arterial, arterial, major collector, collector etc.) and include, but are not limited to curb, gutter, sidewalk, paving, half street width of medians if required, half of median landscaping, landscaping, landscape irrigation, street lights, signing and striping. Except as otherwise provided in a development agreement approved by the City Council or as otherwise

modified by a written phasing plan approved by the City Engineer or his/her designee, the half-street improvements Developer is required to construct shall be completed prior to issuance of the first certificate of occupancy within the Property.

- a. Half-street improvements for a minor arterial to the eastern half of Perryville Road along or adjacent to the frontage of the Property.
 - b. Half-street improvements for a major arterial to the southern half of Indian School Road along or adjacent to the frontage of the Property.
 - c. Half-street improvements for a minor arterial to the western half of Citrus Road along or adjacent to the frontage of the Property.
 - d. Half-street improvements for a major arterial to the northern half of McDowell Road along or adjacent to the frontage of the Property.
5. Except as otherwise provided in a development agreement approved by the City Council, Developer shall remit to the City an in-lieu payment for $\frac{1}{2}$ the cost of a full median and $\frac{1}{2}$ the cost of full-median landscaping for medians within the sections of Perryville Road, Indian School, Citrus Road and McDowell Road referred to in paragraph 4 and all sub-paragraphs therein. The in-lieu payments shall be based on the estimated cost of the full median and full median landscaping as determined by the City Engineer or designee and shall be paid concurrent with or prior to the issuance of any construction permit for the construction of the street improvements where the median will eventually be installed. For example, no construction permit shall be issued for the construction of Citrus Road until the in-lieu payment for $\frac{1}{2}$ the cost of the full median and $\frac{1}{2}$ the cost of the full median landscaping for a median within the section of Citrus Road that is being constructed has been paid.
6. Unless the City Engineer or his designee determines that Thomas Road does not need to be constructed within the section of the Thomas Road alignment located within the Property and the City's Transportation Master Plan is amended, full street improvements required for a minor arterial shall be constructed within the section of the Thomas Road alignment located within the Property. Except as otherwise provided in a development agreement approved by the City Council, Developer shall, at no cost to the City, construct full street improvements, including full medians and full median landscaping, for the section of Thomas Road located within the Property. The improvements to be constructed are the improvements required in the Engineering Design Standards and Policies Manual for a minor arterial and include, but are not limited to curb, gutter, sidewalk, paving, medians, median landscaping,

landscaping, landscape irrigation, street lights, signing and striping. Except as otherwise provided in a development agreement approved by the City Council or as otherwise modified by a written phasing plan approved by the City Engineer or his/her designee, the half-street improvements Developer is required to construct shall be completed prior to issuance of the first certificate of occupancy within the Property.

7. Except as otherwise provided in a development agreement approved by the City Council, Developer shall, at Developer's sole cost and expense, be responsible for the construction of all transportation-related infrastructure needed to support the development and occupancy use of the Property, which includes the transportation-related infrastructure improvements specifically identified in this Ordinance, the infrastructure improvements required to be constructed pursuant to applicable Development Regulations, and any additional on-site or off-site infrastructure identified in any Traffic Impact Analysis/Study provided in connection with the development of the Property. Prior to the approval of each site plan for development within the Property, Developer shall provide an updated Traffic Impact Analysis/Study, which shall be subject to review and approval by the City Engineer of his/her designee. Developer shall, at Developer's sole cost and expense, be responsible for the acquisition of right(s)-of-way and the construction of all transportation related infrastructure identified in the approved Traffic Impact Analysis/Study as being necessary to provide for safe and adequate circulation within the Property, connectivity to neighboring adjacent properties, and connectivity to existing regional transportation routes, this includes the acquisition of rights-of-way needed for the construction of infrastructure that is not within or adjacent to the Property and the construction of such infrastructure. Unless otherwise provided in this Ordinance or in a development agreement approved by Council, transportation-related infrastructure required to be constructed pursuant to this stipulation shall be constructed prior to the issuance of any certificate of occupancy for any structure reflected in the site plan that supported the need for such infrastructure;
8. Except as otherwise provided in a development agreement approved by the City Council, Developer shall make an in-lieu payment for a proportionate share of the costs of full traffic signals, which is the cost of traffic signal infrastructure improvements for all four corners of an intersection, for the intersections identified below. Except as otherwise provided in a development agreement approved by City Council or unless otherwise provided in a written phasing plan approved by the City Engineer or his designee or in a development agreement approved by the City Council, the in-lieu payment shall be made prior to the issuance of the first building permit for private development within the Property. The in-lieu payment shall be based on the actual cost of the traffic signal

if it has been constructed or if the payment is required before the signal is constructed it shall be based on the estimated cost of the traffic signal as determined by the City Engineer or designee. The Developer's traffic signal obligations include, but may not be limited to:

- a. 25% of the cost of the full traffic signal (all four legs) at Perryville Road and Indian School Road;
 - b. 25% of the cost of the full traffic signal at Citrus Road and Indian School Road;
 - c. 25% of the cost of the full traffic signal at McDowell Road and Perryville Road;
 - d. 50% of the cost of the full traffic signal at Thomas Road and Perryville Road;
 - e. 50% of the cost of the full traffic signal at Thomas Road and Citrus Road;
9. In addition to being responsible for a proportionate share of the cost of a full traffic signals as outlined in the stipulation above, Developer is also responsible for a proportionate share of the costs of additional traffic signals identified in an approved Traffic Impact Analysis/Study as being needed. If an updated Traffic Impact Analysis/Study reflects the need for any additional traffic signal at any intersection adjacent to the Property, Developer shall, at no cost to the City, convey, in fee, lien free, and free of any easements or encumbrances unless specifically agreed to by the City, any additional right-of-way needed for the construction of the portion of the traffic signal that will be located on the Property. In addition, Developer shall make an in-lieu payment to the City towards the cost of the signal. Except as provided herein, the in-lieu payment will be 25% of the cost of a full traffic signal for each corner of the intersection adjacent to the Property. For example, if a traffic signal is required at an intersection where two of the four corners of the intersection are adjacent to the Property; Developer would be responsible for 50% of the cost of a full traffic signal. If a three-way traffic signal is required because of the demands of the Property and the intersection does not connect into any other property, Developer shall be responsible for 100% of the cost of the signal. The in-lieu payment shall be calculated based on the actual cost of the traffic signal if it has been constructed or, if the payment is made before the traffic signal has been completed, upon an engineer's estimate of the probable cost of the signal approved by the City Engineer or his designee. The dedication(s) and in-lieu payment(s) required herein shall be made at the earlier of the following: (i) before the issuance of any engineering permit for any of the work reflected in a site plan, Minor Land Division ("MLD"), or final plat that includes, is adjacent to, or requires connection to the intersection where the traffic signal is needed; or (ii) before the

- recordation of any final plat or MLD that includes, is adjacent, or requires connection to the intersection where the traffic signal is needed;
10. In addition to the specific infrastructure identified in this Ordinance, Developer shall construct all infrastructure improvements required by the City of Goodyear subdivision regulations and Engineering Design Standards and Policy Manual in effect at the time of construction;
 11. In addition to complying with the stipulations and conditions of approval set forth herein, Developer shall comply with the Goodyear Zoning Ordinance, the City of Goodyear subdivision regulations, the City of Goodyear's Engineering Design Standards and Policies, except as modified by the City Engineer, the Maricopa County Association of Governments standards for public works construction, and all other federal, state and local laws, ordinances, rules, regulations, standards, and policies applicable to the development of the Property;
 12. The Public Sales Report(s) for the Property and all final plats subdividing all or part of the Property shall include a statement that the Property is subject to attendant noise, vibrations, dust, and all other effects that may be caused by overflight and by the operation of aircraft landing at, or taking off from, Luke Air Force Base;
 13. The Public Sales Report(s) for the Property and all final plats subdividing all or part of the Property shall include a statement that the Property is located in a high noise and accident potential zone and is subject to the requirements of A.R.S. 28-8481; and,
 14. This rezoning is contingent upon vertical construction, in conformance with this Ordinance, the Arizona State Land Department PAD, dated March 11, 2021, and the stipulations contained herein commencing within two years of the effective date this Ordinance. The failure to commence vertical construction within two years of the effective date of this Ordinance shall be cause for the City Council to rescind the zoning after a duly noticed public hearing, unless an extension of time is granted by the City Council. The commencement of vertical construction shall be defined as the active construction of a permanent building foundation on the Property pursuant to and in conformance with an approved building permit issued by the City of Goodyear.

SECTION 5. AMENDMENT TO THE ZONING MAP

The Zoning Map of the City of Goodyear is hereby amended to reflect the rezoning of the Property provided for herein by the adoption of the "Official Supplementary Zoning Map No. 20-21 City of Goodyear, AZ – Rezone Case" declared a public record by Resolution No. 2021-2140, three copies of which are on file with the City Clerk of the City of Goodyear, Arizona and which is referred

to and made a part hereof as if fully set forth in this Ordinance, and the "Official Supplementary Zoning Map No. 20-21 City of Goodyear, AZ – Rezone Case" shall be filed with the City Clerk in the same manner as the Zoning Map of the City of Goodyear.

SECTION 6. ABRIDGEMENT 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 7. CORRECTIONS

The Zoning Administrator, the 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 8. SEVERABILITY

If any provision 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 9. EFFECTIVE DATE

This Ordinance shall become effective as prescribed by law.

SECTION 10. PENALTIES

Any person who violates any 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

STATE OF ARIZONA)
County of Maricopa) ss.

I, the undersigned Darcie McCracken, being the duly appointed, qualified City Clerk of the city of Goodyear, Maricopa County, Arizona, certify that the foregoing Ordinance No. 2021-1497 is a true, correct and accurate copy of Ordinance No. 2021-1497, passed and adopted at a regular meeting of the Council of the city of Goodyear, Maricopa County, Arizona, held on the _____ day of _____, 20____, at which a quorum was present and, by a _____ vote, _____ voted in favor of said ordinance.

Given under my hand and sealed this _____ day of _____, 20____.

seal

City Clerk