

ORDINANCE NO. 2021-1509

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 27 ACRES FROM PRELIMINARY PLANNED AREA DEVELOPMENT (PAD) TO MULTIFAMILY (MF-24) AND GENERAL COMMERCIAL (C-2) WITH A PAD OVERLAY; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR NON-ABRIDGMENT; PROVIDING FOR CORRECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PENALTIES.

WHEREAS, the subject property consists of approximately 27 acres generally located at the northeast corner of Estrella Parkway and Roosevelt Street, legally described in those certain documents titled “Estrella Commons District Commercial – Legal Description” and “Estrella Commons District Multifamily – Legal Description” which documents were declared a public record by Resolution No. 2021-2170, and which are referred to and made a part hereof as if fully set forth in this Ordinance (collectively the “Property”); and

WHEREAS, the Property is designated as “Business and Commerce” on the General Plan Land Use and Transportation Plan. This land use category provides for the growth and development of shopping, office and entertainment areas along with high-density residential and public and community facilities; and

WHEREAS, the Property is zoned Preliminary Planned Area Development (PAD). The PAD is known as Estrella Commons, and was initially approved on October 23, 2006, with the adoption of Ordinance No. 2006-1033, which has been amended several times since its adoption;

WHEREAS, the Property is currently zoned as Preliminary Planned Area Development (“PAD”) under the Estrella Commons PAD, as amended, and is designated as the ‘District’. The ‘District’ land use is intended for a mix of uses, including retail commercial and high-density multi-family residential development; and

WHEREAS, the request is to rezone the approximately 27-acre Property from Preliminary PAD to approximately 17 acres as Multifamily (MF-24) and approximately 10 acres as General Commercial (C-2) with a PAD Overlay known as the Estrella Commons District PAD (the “PAD Overlay”); and

WHEREAS, the proposed rezoning will permit the development of up to 24 dwelling units per acre of multi-family housing, including apartments; and

WHEREAS, the proposed rezoning will permit the development of a commercial center that permits all uses within the C-2 (General Commercial) zoning district, but eliminates the need for Use Permits for restaurants, regardless of the percentage of floor area devoted to food preparation, that include drive-through and/or outdoor dining and eliminates the need for Use Permits for automotive service stations (gas stations) with convenience stores;

WHEREAS, in addition to the PAD Overlay modifies development standards that would otherwise apply to the MF-24 (Multi-Family) zoning district and the C-2 (General Commercial) zoning district; and

WHEREAS, in accordance with the city's Citizen Review Process, a virtual citizen review was held on June 2, 2021 via Zoom. Notice providing information on the request and virtual meeting details was mailed to surrounding property owners within 500 feet of the subject property; and

WHEREAS, a request to rezone property requires public review and approval by the Planning and Zoning Commission and the City Council through the public hearing process. The rezoning must be in conformance with the General Plan and should not adversely impact the surrounding area as outlined in the Zoning Ordinance; and

WHEREAS, staff has determined that the proposed rezoning request is in conformance with the General Plan and will not adversely impact the surrounding area; and

WHEREAS, public notice that this rezoning was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on July 7, 2021 appeared in the Arizona Republic Southwest Valley edition on June 18, 2021; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on July 7, 2021, to consider this rezoning, and the Commission voted (6-0) to recommend approval of the rezoning subject to the stipulations that have been presented; and

WHEREAS, public notice that this PAD rezoning is to be considered and reviewed at a public hearing held before the City Council on July 19, 2021, appeared in the Arizona Republic Southwest Valley edition on June 18, 2021; and

WHEREAS, based on the foregoing Recitals and the other information presented, 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 BEING REZONED

This Ordinance No. 2021-1509 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located at the northeast corner of Estrella Parkway and Roosevelt Street, as shown on "Official Supplementary Zoning Map No. 21-02 City of Goodyear, AZ – Rezone Case," and as legally described in that certain document titled "Estrella Commons District Commercial – Legal Description" and "Estrella Commons District Multifamily – Legal Description," all documents having been declared public records by Resolution No. 2021-2170, and which documents are referred to and made a part hereof as if fully set forth in this Ordinance. (collectively the "Property").

SECTION 2. PLANNED AREA DEVELOPMENT REZONING

The portion of the Property legally described in that certain document titled “Estrella Commons District Commercial – Legal Description” which was declared public record by Resolution No. 2021-2170, and which is referred to and made a part hereof as if fully set forth in this Ordinance is conditionally rezoned to the C-2 (General Commercial) zoning district with a PAD Overlay (the “Commercial Property”) and the portion of the Property legally described in that certain document titled “Estrella Commons District Multifamily – Legal Description,” which was declared a public record by Resolution No. 2021-2170, and which is referred to and made a part hereof as if fully set forth in this Ordinance is conditionally rezoned to MF-24 (Multi-Family Residential) zoning district with a PAD Overlay (the “Multi-Family Residential Property”).

SECTION 3. STIPULATIONS

The development of the Property shall be subject to the following stipulations:

1. That certain document titled Estrella Commons District PAD Overlay, which document was declared a public record by Resolution No. 2021-2170 and which is hereby adopted, referred to, and made a part hereof as if fully set forth herein is hereby approved and adopted (hereinafter referred to as the “PAD Overlay”) and the Property shall be developed in accordance with the PAD Overlay except as otherwise modified by the stipulations herein;
2. The Commercial Property shall be developed in accordance with the Permitted Uses and Development Standards applicable to the C-2 (General Commercial) zoning district set forth in the City of Goodyear Zoning Ordinance in effect at the time of development as modified by the PAD Overlay and except as otherwise modified by the stipulations herein;
3. The Multi-Family Residential Property shall be developed in accordance with the Permitted Uses and Development Standards applicable to the MF-24 (Multi-Family Residential) zoning district set forth in the City of Goodyear Zoning Ordinance in effect at the time of development as modified by the PAD Overlay except as otherwise modified by the stipulations herein;
4. The provisions of the City of Goodyear Zoning Ordinance in effect at the time of development as modified by the PAD Overlay shall apply to the development of Property except as otherwise modified by the stipulations herein;
5. The provisions of the City of Goodyear Design Standards in effect at the time of Development as modified by the PAD overlay, shall apply to the development of the Property except as otherwise modified by the stipulations herein;

6. The Property shall be developed to incorporate the entry features, screen walls, concrete crosswalks as described in Exhibit D – Project Entry Feature, Street Fronting Screen Walls, Concrete Crosswalks of the PAD Overlay;
7. No building permit shall be issued for any structure within the Property until the design of the structure has been approved by the Director of Development Services or his/her designee at his/her discretion;
8. A Comprehensive Sign Package shall be submitted for this property in compliance with the City of Goodyear Zoning Ordinance Article 7. Any requests for deviation from Article 7 will require the Comprehensive Sign Package to be approved by City Council;
9. The Owner of the MF-24 zoned portion of the Property shall acknowledge and disclose to any subsequent purchaser or tenant that the subject property is subject to attendant noise, vibrations, and all other effects that may be caused by overflights and by the operation of aircraft landing at, or taking off from, Luke Air Force Base and/or the Phoenix-Goodyear Airport;
10. The Site Plan and Design Exhibits included in the Project Narrative are not adopted as part of the PAD overlay and are not approved. Site Plan Review and Design Review will be required for the development of each individual lot within the Property. All future development will be subject to site plan review and approval by city staff, at which time all elements of site development will be reviewed, including, but not limited to, architecture, landscaping, grading and drainage, lighting, infrastructure, parking, access and circulation;
11. The development of the Property shall comply with the: City of Goodyear Engineering Design Standards and Policies, the City of Goodyear subdivision regulations in effect at the time the Property is developed; all applicable provisions of the Maricopa County Association of Governments standards for public works construction in effect at the time of development, and all other applicable federal, state and locals laws, ordinances, rules, regulations, standards, and policies applicable to the development of the Property in effect at the time of development;
12. The Conceptual Phasing Plan, attached as Exhibit B to the PAD Overlay is not approved with this rezoning and must be reviewed and approved at the discretion of the City Engineer or his designee through the preliminary plat and/or site plan processes;
13. The Traffic Impact Analysis submitted with the application for rezoning is not approved. An updated Traffic Impact Analysis that complies with all of the requirements in the Engineering Design Standards and Policies Manual shall be submitted with the first preliminary plat and/or site plan submitted for the development of the Property and approved by the City Engineer or his/her designee. The Traffic Impact Analysis shall identify all infrastructure required to accommodate the additional trips generated by the development of Property as rezoned, and the location of all access points from the public

right-of-way to the Property, all of which shall comply with all applicable regulations including the requirements in the Engineering Design Standards and Policies Manual;

14. The proposed utility layout submitted with the rezoning application is not approved. The location of all utilities shall be reviewed and determined during preliminary plat and/or site plan processes;
15. Owner/Developer shall construct, at no cost to the City, the remainder of the full half-street improvements required for a Scenic Arterial as set forth in the Engineering Design Standards and Policies Manual in effect at the time of construction for the section of Estrella Parkway along the western boundary of the Property. This includes, but is not limited to pavement for a third lane of the east side of Estrella Parkway, decel lanes, bus bays, bike lanes, curb, gutter, sidewalks, street frontage landscape and landscape irrigation, (the "Estrella Parkway Improvements"). The Estrella Parkway Improvements shall be completed prior to the issuance of any Certificate of Completion, Temporary Certificate of Occupancy or Certificate of Occupancy for any structure within the Property;
16. If, when a permit is sought for any work on the Property, all or part of the required Estrella Parkway Improvements have been constructed or are under construction pursuant to the City of Goodyear 21-0937 – CIP Estrella Widening – 1-10 to Roosevelt (CIP 42023) project or any other city funded project, Owner shall remit to the City of Goodyear an in-lieu payment for the costs the City of Goodyear incurred or will incur in constructing any of the Estrella Parkway Improvements and Owner/Developer shall construct all remaining required Estrella Parkway Improvements. The payment required hereunder shall be remitted prior to the issuance of any permit from construction within the Property. The remaining Estrella Parkway Improvements shall be completed prior to the issuance of any Certificate of Completion, Temporary Certificate of Occupancy or Certificate of Occupancy for any structure within the Property;
17. Owner/Developer shall construct, at no cost to the City, all remaining infrastructure improvements required in the Engineering Design Standards and Policies Manual in effect at the time of construction for the section of W. Roosevelt Street along the southern boundary of the Property (the "Remaining W. Roosevelt Street Improvements"). The Remaining W. Roosevelt Street Improvements shall be completed prior to the issuance of any Certificate of Completion, Temporary Certificate of Occupancy or Certificate of Occupancy for any structure within the Property;
18. Owner/Developer shall construct, at no cost to the City, all infrastructure improvements identified in all approved Traffic Impact Analysis submitted pursuant to the stipulations set forth herein. This could include, by way of example but not limitation, modifying the existing median within Estrella Parkway and constructing infrastructure improvements to either extend the existing left turn lane or to add an additional left turn lane; modifying existing

improvements to the southeast corner of Estrella Parkway and W. Roosevelt Street to accommodate changes to the turn lane and/or access easement improvements. The infrastructure improvements identified in an approved Traffic Impact Analysis shall be completed prior to the issuance of any Certificate of Completion, Temporary Certificate of Occupancy or Certificate of Occupancy for any structure within the Property;

19. Owner shall dedicate, at no cost to the City, all rights-of-way and/or easements that are: (i) needed for the construction of infrastructure improvements required for the City to provide water and 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 Owner 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, including any additional infrastructure improvements required pursuant to an approved Traffic Impact Analysis, and/or (vi) required public infrastructure improvements Owner 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. All dedications shall be made at the time of the first site plan approval for development within the Property or prior to or concurrent with recordation of a final plat subdividing all or part of the Property, whichever is earlier except that if the City intends to undertake the construction of any of the Estrella Parkway Improvements for which Owner/Developer is responsible for constructing, Owner shall dedicate any right-of-way and/or easements within the Property needed for the completion of such improvements within thirty (30) days of a written request from the City Engineer or his designee;
20. In addition to constructing the specific infrastructure identified in the stipulations herein, Owner/Developer shall construct, at no cost to the City, all public infrastructure improvements: (i) needed for the city to provide services to the Property and (ii) required to be constructed 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;

21. In addition to compliance with the stipulations set forth herein, the development of the Property 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;
22. Owner/Developer shall coordinate with Roosevelt Irrigation District (RID) on the piped irrigation lateral through the Site. Roosevelt Irrigation District Approval shall be required prior to the issuance of any permit for any work within the Property;
23. Owner shall apply to the Arizona Department of Water Resources (ADWR) for the extinguishment of the Type 1 Rights appurtenant to the Property and request that any assured water supply credits issued by ADWR as a result of any such extinguishment be credited to the City of Goodyear. Said extinguishment shall occur prior to the approval of any Site Plan, recordation of the first final plat subdividing all or part of the Property, or the issuance of any construction permits for work within the Property, whichever is earlier; and
24. Prior to the issuance of the first Certificate of Completion, Temporary Certificate of Occupancy or Certificate of Occupancy for any structure within the Property, all existing above ground utilities, except for electric lines that are 69kV or larger, located within and adjacent to the Property, including but not limited to, cable and electrical utilities, shall be placed underground at no cost to the City.

SECTION 4. AMENDMENT OF 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 that certain document titled "Official Supplementary Zoning Map No. 21-02 City of Goodyear, AZ – Rezone Case," declared a public record by Resolution No. 2021-2170, 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 such "Official Supplementary Zoning Map No. 21-02 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 5. 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 6. 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 7. 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 8. 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 9. 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)
) ss.
County of Maricopa)

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

City Clerk