

## **ORDINANCE NO. 2021-1499**

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 20 ACRES OF LAND LOCATED AT THE NORTHEAST CORNER OF COTTON LANE AND CANYON TRAILS BOULEVARD FROM THE CANYON TRAILS PHASE I PLANNED AREA DEVELOPMENT TO THE MULTIFAMILY (MF-24) ZONING DISTRICT; 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, on July 26, 1999, the City Council adopted Ordinance No. 99-649 approving the rezoning of 1244.292 acres of property to the Final Planned Area (PAD) District, Mixed Uses to facilitate development known as Canyon Trails Phase I (the “Canyon Trails Phase I PAD”); and

WHEREAS, the subject property consists of approximately 20 acres of land generally located on the north side of Canyon Trails Boulevard east of Cotton Lane as depicted in that certain document titled “Supplementary Zoning Map No. 20-04A,” which document was declared a public record by Resolution No. 2021-2143 and which is referred to and made a part hereof as if fully set forth herein, and as more specifically described in that certain document Legal Description – Aviata, which document was declared a public record by Resolution No. 2021-2143 and which is referred to and made a part hereof as if fully set forth herein (the “Property”); and

WHEREAS the Property is included within the Canyon Trails Phase I PAD; and

WHEREAS, the land use designation for the Property under the Canyon Trails Phase I PAD is Medium/High Density Residential (Court Homes); and

WHEREAS, the General Plan Land Use Plan designates the Property as Business & Commerce, which identifies areas for the growth and development of Goodyear’s economic base and which supports the development of high density residential; and

WHEREAS, this request is to rezone the Property to the Multi-Family Residential (MF-24) Zoning District; and

WHEREAS, a request to amend the boundaries of a zoning district requires review by the Planning and Zoning Commission and final decision by the City Council through the public hearing process, and to be approved, the rezoning amendment must be found in conformance with the General Plan and to not adversely impact the surrounding area as outlined in the Zoning Ordinance; and

WHEREAS, the proposed rezoning is in consistent with the designation of the Property in the General Plan as Business & Commerce and the development of high density residential the development of the Property as high density residential will not adversely impact the surrounding area; and

WHEREAS, a rezoning requires public review and recommendation by the Planning and Zoning Commission and approval by the City Council; and

WHEREAS, public notice that this rezoning request was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on April 14, 2021, appeared in the Arizona Republic Southwest Valley edition on March 26, 2021; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on April 14, 2021 to consider the rezoning of the Property, and the Commission voted (X-X) to recommend/not recommend approval of the proposed rezone; and

WHEREAS, public notice that this rezoning is to be considered and reviewed at a public hearing held before the City Council on April 26, 2021, appeared in the Arizona Republic Southwest Valley edition on March 26, 2021; 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 interest, health, comfort, convenience, safety, and general welfare of the citizens of the City of Goodyear.

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. 2021-1499 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located on the north side of Canyon Trails Boulevard east of Cotton Lane as legally described in that certain document titled Legal Description – Aviata, which document was declared a public record by Resolution No. 2021-2143 and which is referred to and made a part hereof as if fully set forth in this Ordinance (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 The Property is conditionally rezoned from the PAD Zoning District to the Multi-Family Residential MF 24 Zoning District

SECTION 4. STIPULATIONS

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

1. Development of the Property shall comply with the development standards and requirements applicable to the Multi-Family Residential MF-24 Zoning District except as modified by the stipulations and conditions set forth below;

2. Approval of the rezoning does not constitute approval of the site plan. 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;
3. The Exterior Noise Standards set forth in Goodyear Zoning Ordinance section 9-1-3(A) and the Interior Noise Standards set forth in Goodyear Zoning Ordinance section 9-1-3(B) apply to the development of the Property. At the time of site plan, a sound attenuation plan that includes a noise analysis shall be submitted to the City Engineer or his/her designees for approval. The sound attenuation plan shall demonstrate that the development reflected in the site plan will result in compliance with the Exterior and Interior Noise Standards in section 9-1-3 of the Goodyear Zoning Ordinance, and the Property shall be developed to incorporate all internal and external noise mitigation measures reflected in the approved sound attenuation plan. All noise mitigation measures reflected in the approved sound attenuation plan shall be constructed prior to the issuance of the first certificate of occupancy or certificate of completion for any residential unit within the Property.
4. The Owner shall, at no cost to the City, complete the half-street improvements required for a minor collector along the north half of W. Canyon Trails Blvd. between Cotton Lane and the eastern boundary of the Property, subject to ADOT approval to the extent required, and such improvements shall include but are not limited to curb, gutter, sidewalk, paving, landscaping, landscape irrigation, street lights, signing and striping, or alternatives approved by the City Engineer in his/her sole discretion that may be warranted because of the completion or imminent completion of the section Loop 303 by ADOT west of the Property. The improvements referred to herein shall be completed prior to issuance of the first temporary certificate of occupancy, certificate of occupancy or certificate of completion for any structure within the Property.
5. The Owner shall construct, at no cost to the City, an eight-foot public sidewalk and a five-foot landscape buffer along the western boundary of the property between W. Canyon Trails Blvd and the northern boundary of the Property. The sidewalk shall be located adjacent to the west side of the landscape buffer. Owner shall dedicate, at no cost to the City, an easement for the operation, maintenance, repair, replacement and use of the sidewalk prior to the issuance of any permit for construction within the Property. The improvements referred to herein shall be completed prior to issuance of the first temporary certificate of occupancy, certificate of occupancy or certificate of completion for any structure within the Property.
6. Any perimeter fence or wall constructed along the western side of the Property shall be constructed on the east side of the landscape buffer to be installed pursuant to stipulation 5 above.

7. Owner 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 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, 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. Unless the timing of the required dedications is modified by any stipulation in this ordinance, all dedications shall be made prior to or concurrent with recordation of a final plat or the issuance of any permit for work within the Property whichever is earlier; and
8. 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 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.
9. Any modifications to existing private irrigation facilities as a result of this development shall be coordinated with the appropriate Irrigation District/private owner.

#### SECTION 5. 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 "Supplementary Zoning Map No. 20-04A Rezone from PAD to MF-24," declared a public record by Resolution No. 2021-2143 and which is referred to and made a part hereof as if fully set forth in this Ordinance.

#### 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, 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 9. 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 )  
 ) ss.  
County of Maricopa )

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. 2021-1499 is a true, correct and accurate copy of Ordinance No. 2021-1499, 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