

## **ORDINANCE NO. 2021-1505**

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 240.32 ACRES GENERALLY LOCATED NORTHWEST OF 181<sup>ST</sup> AVENUE AND YUMA 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 240.32 acres generally located at the northwest corner of 181<sup>st</sup> Avenue and Yuma Road and more particularly described in that certain document entitled "Legal Description – La Privada" declared a Public Record by Resolution No. 2021-2165, 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 the Property as Neighborhoods. This land use category provides areas for the growth and development of neighborhoods that include a wide range of densities and housing products; and

WHEREAS, approximately 43.53 acres of the Property of the 240.32-acre property, which was formerly known as Paseo Ridge Phase 2 and then renamed Paseo Place Parcel 1, was initially zoned Agricultural Urban (AU) by Ordinance No. 2006-1015; and

WHEREAS, Paseo Place 1 (formerly Paseo Ridge Phase 2), was rezoned from Agricultural Urban (AU) to R1-6 by Ordinance No. 2006-1016; and

WHEREAS, approximately 198 acres of the Property known as La Privada was zoned (AU) Agricultural Urban by Ordinance No. 2006-1013; and

WHEREAS, La Privada was rezoned from (AU) Agricultural Urban to Planned Area Development (PAD) with an underlying lot size of R1-6 and R1-7 by Ordinance No. 2006-1014; and

WHEREAS, in 2018, Council adopted Ordinance No. 2018-1411, rezoning La Privada from PAD a combination of R1-7 (approximately 69 acres); R1-6 (approximately 48 acres) and R1-4 (approximately 76 acres);

WHEREAS, the Owner of La Privada has acquired Paseo Place Parcel 1 and intends to develop it as part of La Privada;

WHEREAS, the proposed rezoning will rezone La Privada and Paseo Place Parcel 1 to R1-4 (Single Family Detached) Zoning District with R1-4 Reduced Development Standards and a PAD Overlay that will create a modified 45-foot wide by 120-foot deep lot, a 50-foot wide by 120-foot deep lot and a 55-foot wide by 120-foot deep lot to be developed as La Privada; and

WHEREAS, the rezoning will permit the Property to be developed with residential uses and will adhere to the principal permitted uses, permitted accessory uses, use permit uses, special uses and

development regulations as established in the city of Goodyear Zoning Ordinance for the R1-4 (Single Family Detached) Zoning District; and

WHEREAS, the requirements for the R1-4 (Single Family Detached) Zoning District with Reduced R1-4 Development Standards and with a PAD Overlay requires the development of the Property to incorporate additional design elements, including amenity elements, connectivity elements, and streetscape elements; and

WHEREAS, to satisfy the additional amenity elements, connectivity elements and streetscape elements required for the R1-4 (Single Family Detached) Zoning District with R1-4 Reduced Development Standards, the Property will be developed in accordance with Planned Area Development Overlay adopted herein and with the design elements and amenities set forth in the stipulations set forth below; and

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

WHEREAS, the Property is located within West Goodyear and consists of two of the original “West Goodyear Properties;” and

WHEREAS, master water and wastewater studies and amendments and supplements thereto have been adopted that identify regional water and wastewater lines needed to serve the West Goodyear properties, including the Property; and

WHEREAS, the proposed rezoning does not impact or require any change to the West Goodyear master water or master wastewater studies; and

WHEREAS, cost recovery resolutions have been adopted and amended as needed to reflect the changes to the master water and wastewater studies to provide for reimbursements from the properties benefitted by the regional water and wastewater lines that are constructed or that would be constructed by others; and

WHEREAS, Cost Recovery Resolution of Intention No. 06-1064 as amended by Resolution No. 14-1621 and Resolution No. 16-1747 (the “Cost Recovery Resolution – Water Delivery Lines”) identifies regional water delivery lines that when completed will benefit the Property; and

WHEREAS Cost Recovery Resolution of Intention No. 06-1065 as amended by Resolution No. 14-1622 and Resolution No. 16-1748 (the “Cost Recovery Resolution – Wastewater Trunk Lines”) identifies regional wastewater trunk lines that when completed will benefit the Property; and

WHEREAS, Owner is required to construct 100% of each regional water delivery line identified in the Cost Recovery Resolution – Water Delivery Lines as benefitting the Property or to make a cost recovery payment for each regional water delivery line identified in the Cost Recovery Resolution – Water Delivery Lines as benefitting the Property that Owner does not fully construct; and

WHEREAS, Owner is required to construct 100% of each regional wastewater trunk line identified in the Cost Recovery Resolution – Wastewater Trunk Lines as benefitting the Property or to make a cost recovery payment for each regional wastewater trunk line identified in the Cost Recovery Resolution – Wastewater Trunk Lines as benefitting the Property that Owner does not fully construct; and

WHEREAS, an alternative citizen review process was conducted for this proposal due to the city of Goodyear Emergency Declaration in Response to Coronavirus and notice of the application was provided to property owners within 500 feet of the property at least 35 calendar days prior to public hearing to provide ample opportunity for input prior to noticing the public hearing itself. The notice was mailed on May 22, 2021; and

WHEREAS, a 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 July 7, 2021 appeared in the Arizona Republic Southwest Valley Edition June 18, 2021; postcards were mailed to adjoining owners on June 12, 2021; and a sign was posted on the site on June 4, 2021; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on July 7, 2021 to consider the rezoning of the property to the R1-4 Reduced with a Planned Area Development Overlay and stipulations and the Commission voted (TBD-TBD) to recommend approval of the proposed rezoning; and

WHEREAS, a public notice that this rezoning request would be considered and reviewed at a public hearing to be held before the City Council on July 19, 2021 appeared in the Arizona Republic Southwest Valley Edition June 18, 2021; postcards were mailed to adjoining owners on June 12, 2021; and a sign was posted on the site on June 4, 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 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. 2021-1505 applies to approximately 240.32 acres of land in Goodyear, Maricopa County, Arizona, generally located northwest of 181<sup>st</sup> Avenue and Yuma Road as depicted on that certain document titled "Official Supplementary Zoning Map No. 20-03 City of Goodyear, AZ – Rezone Case" and as legally described in that certain document titled "Legal Description – La Privada," both documents having been declared public records by Resolution No. 2021-2165 and which are referred to and made a part hereof as if fully set forth herein (the "Property").

## SECTION 2.     ADOPTION OF FINDINGS

The WHEREAS 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 to R1-4 (Single Family Detached) Zoning District with R1-4 Reduced Development Standards and a PAD Overlay for a development to be known as La Privada.

## SECTION 4.     STIPULATIONS AND PLANNED ARE DEVELOPMENT OVERLAY

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

1. A PAD Overlay for the development of the Property to be known as La Privada is hereby adopted, modifying the foregoing standards applicable to R1-4 (Single Family Detached) Residential District with R1-4 Reduced Development Standards as follows:
  - The minimum width of all lots within the Property shall be 40-feet
  - At least 35% of the lots within the Property shall be at least 45-feet wide with a minimum depth of 120-feet
  - At least 25% of the lots within the Property shall be at least 50-feet wide with a minimum depth of 120-feet
  - At least 15% of the lots within the Property shall be at least 55-feet wide with a minimum depth of 120-feet;
2. The Property shall be developed in accordance with the Permitted Uses and Development Standards applicable to R1-4 (Single Family Detached) Residential District with R1-4 Reduced Development Standards as modified by the PAD Overlay adopted herein and except as otherwise modified by the stipulations herein;
3. The number of dwelling units within the Property shall not exceed 1,200;
4. A 6.5-acre centralized park located at the heart of the Property shall be developed. The centralized park shall provide localized usable active open space area and shall include the following resident and recreational amenities:
  - An outdoor community center that provides a covered and connected community space that surrounds a centralized event lawn on three sides. The outdoor community center shall not be a ramada structure, but shall be designed to feel like a unified outdoor building. The back side of the community center (i.e. the side not adjacent to the centralized event lawn) shall be constructed to have the feel of a solid wall but does not have to

be a solid wall. The outdoor community center shall be designed to provide areas that are separated from one another that allow for small and large group gatherings and/or that provide for entertainment activities such as ping pong, pool, and areas to play board games.

- Shaded or trellised areas with seating, which shall be clustered adjacent to the community center and/or centralized event lawn
  - Areas for activities such as cornhole, bocce ball and the like, which shall be located adjacent to the community center and/or centralized event lawn.
  - Kitchen preparation facilities with a built-in counter top sink and a minimum of two gas barbecue grills, which can be located either within the outdoor community center or under a shaded or trellised structure
  - A splash pad fountain with shaded perimeter seating
  - An area with a fireplace and fire pits that provides for seating
  - Sports courts such as basketball courts, tennis courts, pickleball courts and the like, which shall be located adjacent to the Outdoor Community Center and/or centralized event lawn.
  - A multi-use turf field.
  - Amphitheater seating.
  - The resident and recreational amenities to be provided as set forth above may be modified subject to the determination of the City of Goodyear Zoning Administrator, at his sole discretion, that the alternatively proposed resident and recreational amenities shall collectively be of an equal or greater quality to those described above.
5. Except as otherwise provided in a development agreement approved by the City Council, the portion of the portion of the Property where the 6.5 acre centralized park is to be located shall be included in the first recorded final plat subdividing all or part of the Property and no Temporary Certificates of Occupancy, Certificates of Occupancy or Certificates of Completion shall be issued for any structure with the Property, except for model homes, until the 6.5 acre centralized park including the resident and recreational amenities set forth in Stipulation 4 above have been substantially completed as determined by the City of Goodyear Building Official or his designee or are under construction and bonded for completion as approved by the City of Goodyear Zoning Administrator.
6. Owner/Developer shall construct a tot lot and sport court within the areas of each of the parcels, except parcel 6, reflected in that certain document titled Land Use Plan La Privada declared a Public Record by Resolution No. 2021-2165, and which is referred to and made a part hereof as if fully set forth herein ("Land Use Plan");
7. An 8-acre parcel adjacent to the northeast corner of the 183<sup>rd</sup> Avenue and Harrison Street alignment, which parcel shall not include any part

of the Emergency Conveyance Channel or the pedestrian trail that is to be developed along the banks of the Emergency Conveyance Channel, shall be dedicated for a future school site unless the Liberty Elementary School District advise the City in writing that neither intends to develop the parcel as a school site;

8. Owner/Developer shall construct all drainage facilities required to convey, retain, and/or otherwise dispose of on-site storm-water run-off and storm-water run-off from adjacent streets and all drainage facilities required to convey and dispose of off-site storm water run-off from north of the Property as generally described in that certain document titled La Privada Conceptual Drainage Map declared a Public Record by Resolution No. 2021-2165, and which is referred to and made a part hereof as if fully set forth herein (the "Drainage Map"), including an Emergency Conveyance Channel" through the Property that is approximately 95-feet wide. Except as otherwise provided in a written development agreement approved by Council or a written phasing plan approved by the City Engineer or his designee, the entire Emergency Conveyance Channel shall be completed prior to the issuance of any Certificate of Completion, Certificate of Occupancy or Temporary Certificate of Occupancy for any structure within the Property. The Emergency Conveyance Channel shall be owned and maintained by the HOA that is to be formed as described in stipulation 20; and
9. Owner/Developer shall construct an 8-foot decomposed granite bridle/equestrian trail along the eastern boundary of the Property and the northern boundary of the Property as generally depicted on that certain document titled La Privada Conceptual Amenity Plan declared a Public Record by Resolution No. 2021-2165, and which is referred to and made a part hereof as if fully set forth herein (the "Amenity Plan"). Except as otherwise provided in a written development agreement approved by Council or a written phasing plan approved by the City Engineer or his designee, the bridle/equestrian trail referred to herein shall be constructed in connection with the development of the portions of the Property identified as Parcels 1, 2, and 3 in the Land Use Plan and shall be completed as follows: The section of the bridle/equestrian trail located within the area identified as Parcel 1 shall be completed prior to the issuance of any Certificate of Completion, Certificate of Occupancy or Temporary Certificate of Occupancy for any structure located within the area identified as Parcel 1 in the Land Use Plan. The section of the bridle/equestrian trail located within the area identified as Parcel 2 shall be completed prior to the issuance of any Certificate of Completion, Certificate of Occupancy or Temporary Certificate of Occupancy for any structure located within the area identified as Parcel 2 in the Land Use Plan. The section of the bridle/equestrian trail located within the area identified as Parcel 3 shall be completed prior to the issuance of any Certificate of Completion, Certificate of Occupancy or Temporary Certificate of Occupancy for

- any structure located within the area identified as Parcel 3 in the Land Use Plan. The bridle/equestrian trail shall be owned and maintained by the HOA that is to be formed as described in stipulation 20 below, but shall be available for use by the general public and an easement shall be dedicated to the City of Goodyear, in a form acceptable to the City Attorney or his designee, that allows for such public use; and
10. Owner/Developer shall construct a 6-foot paved pedestrian trail/path along the western bank of the Emergency Conveyance Channel, which shall have trail markers and include fitness stations and provide a minimum of four (4) informal gathering and resting stations. The paved pedestrian trail/path along the western bank of the Emergency Conveyance Channel shall be constructed when the Emergency Conveyance Channel is constructed. The paved pedestrian trail/path along the western bank of the Emergency Conveyance Channel shall be owned and maintained by the HOA that is to be formed as described in stipulation 20 below, but shall be available for use by the general public and an easement shall be dedicated to the City of Goodyear, in a form acceptable to the City Attorney or his designee, that allows for such public use; and
  11. Owner/Developer shall construct paved 5-foot wide off-street paths/trails (i.e. the trails/paths are not adjacent to public right-of-way) within the Property that interconnect the development parcels and connect all the development parcels to the 6.5-acre centralized park as well as the 6-foot paved pedestrian trail and 8-foot decomposed granite bridle/equestrian trail; where these trails cross the road, they should be marked with pavers, colored concrete or stamped concrete. The paved off-street paths/trails referred to herein shall be completed prior to the issuance of any Certificate of Completion, Certificate of Occupancy, or Temporary Certificate of Occupancy for any structure within a final plat where such paved off-street path/trail is located. The paved off-street paths/trails referred to herein shall be owned and maintained by the HOA and the pavers, colored concrete or stamped concrete constructed within public roadways shall be maintained by the HOA that is to be formed as described in stipulation 20 below; and
  12. Owner/Developer shall construct a path/trail along Yuma Road, which shall be part of the Maricopa Trail, that consists of a minimum of an 8-foot concrete sidewalk with 2-feet of compacted decomposed granite on both sides of the concrete sidewalk (which are level with the concrete sidewalk) and that shall be setback a minimum of 12 feet from the curb of Yuma Road following the completion of the Yuma Road Improvements described in stipulation 27 below. The path/trail referred to herein shall be constructed with the Yuma Road Improvements; and
  13. A raised and landscaped median island shall be constructed within 183<sup>rd</sup> Avenue in front of the centralized park and community center, Unless an alternative amenity is provided as approved by the Zoning Administrator, to provide for traffic calming and a mid-block pedestrian

- refuge to the centralized park, a raised median island shall be constructed within 183<sup>rd</sup> Avenue in front of the centralized park, the design of which is subject to the approval of the City Engineer or his designee and the Director of Public Works. The HOA that is to be formed as described in stipulation 20 below, shall be responsible for maintaining the median and landscaping referred to herein pursuant to terms and conditions approved by the City Attorney or his designee; and
14. Perimeter walls around the Property shall only be constructed along the rear of the residential lots; and
  15. All walls constructed along the rear of residential lots along the Emergency Conveyance Channel shall be view walls with 4-foot block and a minimum of 2-feet of wrought iron on top and the eastern boundary along the Emergency Conveyance Channel shall remain open; and
  16. A minimum of five (5) shaded agrarian or trellis style seating areas shall be provided within the development that serve as decorative focal node within the community in focal point areas generally located in the areas identified as “Streetscape Seating Element” in the Amenity Plan which locations may be modified subject to the approval of the Director of Development Services or his designee; and
  17. West Goodyear design elements shall be incorporated into the design of the community entrances off of Yuma Road at 183<sup>rd</sup> Avenue and Perryville Road at Harrison Street, the words “West Goodyear” will appear on a trellis, monument sign or similar agrarian element. The minimum text height of “West Goodyear” shall be 10-inches; and
  18. Three (3) additional Streetscape Elements as set forth in section 3-4-3 of the Goodyear Zoning Ordinance shall be incorporated into the development of the Property. These elements shall be agreed upon prior to the approval of a preliminary plat subdividing all or part of the Property; and
  19. Following the approval, installation and construction of the amenities and improvements described above there shall be no modifications to any of the Design Elements unless the Development Services Director or designee has determined that such modifications are consistent with the requirements set forth in this Ordinance or provide an equal or greater level of quality and functionality as the Design Elements being modified and the modifications have been approved by the Development Services Director or designee; and
  20. Prior to the recordation of the first final plat subdividing all or part of the Property, Owner shall form a homeowners’ association (“HOA”) for the Property, with said HOA owning and maintaining all private open space areas; common areas, and all amenities and enhancements described above, except that the HOA shall not own, any of the enhancements or amenities located within right-of-way conveyed to the City of Goodyear in fee, but shall be responsible for maintaining such amenities and enhancements. With respect to the paths and trails

- the HOA is responsible for maintaining, the HOA shall ensure that they are cleared, visible, and safely accessible to all users. The HOA shall also be responsible for maintaining all landscaping within street right-of-way within or abutting the Property except for landscaping within medians located within any arterial street. A note shall be placed on each final plat indicating HOA ownership and/or maintenance responsibilities of these private tracts and public rights-of-way landscaping. Notwithstanding the foregoing, any portion of the Maricopa Trail described in stipulation 12 above located within right-of-way conveyed to the City shall be maintained by the City; and
21. Only single-story structures shall be constructed within the south - southwest corner of the Property on lots that are within 100-feet east of the western boundary of the Property and 295-feet north of the northern boundary of the Yuma Road alignment.
  22. The Public Sales Report(s) for the Property and all final plats subdividing all or part of the Property shall disclose that the Property is in close proximity to agricultural uses and may therefore be subject to noise, dust, and odors associated with such uses; and
  23. Owner shall obtain from all initial homebuyers an executed acknowledgment that runs with the land in which the homebuyer(s) acknowledge that the lot they are purchasing is in close proximity to agricultural uses and may therefore be subject to noise, dust, and odors associated with such uses.;
  24. 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; and
  25. Owner shall obtain an executed waiver agreement from all initial homebuyers that complies with the following. The waiver agreement shall run with the land and shall include the following waiver language: "Buyer(s) acknowledge that the lot being purchased is subject to attendant noise, vibrations, dust, and all other effects that may be caused by over flights and by the operation of aircraft landing at, or taking off from, Luke Air Force Base, and hereby releases and discharges the City of Goodyear from any liability for any and all claims for future damages to persons or property and complaints of any kind that may arise at any time in the future from the operation of such aircraft near and over the area"; and
  26. Signage shall be posted within all subdivision sales offices identifying the location of the Luke Air Force Base: Accident Potential Zones (APZs), 65 Ldn and higher noise contours, departure corridors, and vicinity boundary. This display shall include a 24-inch x 36-inch map at the main entrance of such sales facility and shall include the approximate locations of the homes being sold clearly depicted; and

27. Except as otherwise expressly modified in the stipulations herein, Owner/Developer shall construct full half-street improvements required for a Scenic Arterial as set forth in the Engineering Design Standards and Policies in effect at the time of construction for the section of W. Yuma Road along or abutting the southern boundary of the Property, which includes but is not limited to pavement, curb and gutter, one-half median, sidewalks, street frontage landscape and landscape irrigation, and street lighting (the “Yuma Road Improvements”). Except as otherwise provided in a written development agreement approved by Council or a written phasing plan approved by the City Engineer or his designee, the Yuma Road Improvements shall be completed as follows. The Yuma Road Improvements shall be completed prior to the issuance of any Certificate of Completion, Certificate of Occupancy or Temporary Certificate of Occupancy for any structure within the areas identified as Parcels 3 and 7 in the Land Use Plan. The Yuma Road Improvements shall be completed prior to the issuance of any Certificate of Completion, Certificate of Occupancy or Temporary Certificate of Occupancy for any structure within the areas identified as Parcels 1, 2, 4, 5, and 6 in the Land Use Plan; and
28. Owner/Developer shall remit to the City an in-lieu payment for one-half the cost of a full median and one-half the cost of full-median landscaping for the median that is to be installed within the section of W. Yuma Road along or adjacent to the frontage of the Property. The in-lieu payment for the median and median landscaping shall be based on the actual cost of the full median and full median landscaping if completed or the estimated cost of the full median and full median landscaping as determined by the City Engineer or designee, and it shall be paid prior to the recordation of the final plat subdividing all or part of the Property that triggers Owner’s obligations to construct the Yuma Road Improvements; and
29. Except as otherwise expressly modified in the stipulations herein, Owner/Developer shall construct full half-street improvements required for a Major Arterial as set forth in the Engineering Design Standards and Policies in effect at the time of construction for the section of S. Perryville Road along or abutting the western boundary of the Property, including, but not limited to, pavement, curb and gutter, sidewalks, street frontage landscape and landscape irrigation, and street lighting (the “Perryville Road Improvements”). Except as otherwise provided in a written development agreement approved by Council or a written phasing plan approved by the City Engineer or his designee, the Perryville Road Improvements shall be completed prior to the issuance of any Certificate of Completion, Certificate of Occupancy or Temporary Certificate of Occupancy for any structure within the areas identified as Parcels 1, 2, 4, 5, and 6 in the Land Use Plan; and
30. Owner shall remit to the City an in-lieu payment for one-half the cost of a full median and one-half the cost of full-median landscaping for the

median that is to be installed within the section of S. Perryville Road along or adjacent to the frontage of the Property. The in-lieu payment for the median and median landscaping shall be based on the actual cost of the full median and full median landscaping if completed or the estimated cost of the full median and full median landscaping as determined by the City Engineer or designee, and it shall be paid prior to the recordation of the final plat subdividing all or part of the Property that triggers Owner's obligations to construct the Perryville Road Improvements; and

31. Owner/Developer shall construct full half-street improvements required for a Minor Collector as set forth in the Engineering Design Standards and Policies in effect at the time of construction for the south half of the section of W. Harrison Street along or abutting the Property (i.e. between Perryville Road and 183<sup>rd</sup> Avenue), including, but not limited to, pavement, curb and gutter, landscaping, sidewalks, street frontage landscape and landscape irrigation, and street lighting, and Owner/Developer shall construct additional improvements to the north half of the section of W. Harrison Street between Perryville Road and 183<sup>rd</sup> Avenue identified in a Traffic Impact Analysis approved by the City Engineer or his design as being needed to accommodate the traffic that will be generated by the development of the Property (collectively the "Harrison Street Improvements"). Except as otherwise provided in a written development agreement approved by Council or a written phasing plan approved by the City Engineer or his designee, all of the Harrison Street Improvements (i.e. between Perryville Road and 183<sup>rd</sup> Avenue) shall be completed prior to the issuance of any Certificate of Completion, Certificate of Occupancy or Temporary Certificate of Occupancy for any structure within the areas identified as Parcels 1, 2, 4, 5, and 6 in the Land Use; and
32. Owner/Developer shall construct full street improvements (i.e. improvements to the east and west sides of 183<sup>rd</sup> Avenue) required for a Minor Collector, as set forth in the Engineering Design Standards and Policies in effect at the time of construction, for the section of 183<sup>rd</sup> Avenue located within the Property (i.e. between Yuma Road and Harrison Street), including, but not limited to, pavement, curb and gutter, sidewalks, street frontage landscape and landscape irrigation, and street lighting (the "183<sup>rd</sup> Avenue Improvements"). Except as otherwise provided in a written development agreement approved by Council or a written phasing plan approved by the City Engineer or his designee, the 183<sup>rd</sup> Avenue Improvements shall be completed as follows. The full street improvements to the section of 183<sup>rd</sup> Avenue adjacent to Parcels 3 and 7 in the Land Use Plan shall be completed prior to the issuance of any Certificate of Completion, Certificate of Occupancy or Temporary Certificate of Occupancy for any structure located within the areas identified as Parcels 3 and 7 in the Land Use Plan. The full street improvements for the entire section of 183<sup>rd</sup> Avenue

- located within the Property (i.e. between Yuma Road and Harrison Street) shall be completed prior to the issuance of any Certificate of Completion, Certificate of Occupancy or Temporary Certificate of Occupancy for any structure within the areas identified as Parcels 1, 2, 4, 5, and 6 in the Land Use Plan; and
33. In addition to the 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 water and wastewater 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; and
34. 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, including rights-of-way and/or easements needed for the construction of any regional water delivery lines identified in the Cost Recovery Resolution – Water Delivery Lines as benefitting the Property and/or for the construction identified in the Cost Recovery Resolution – Wastewater Trunk Lines as benefitting the Property (iii) 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; (iv) required for the construction of improvements for which Owner is responsible for making in-lieu payments; (v) required to be dedicated pursuant to any development agreement with the City regarding the development of the Property; (vi) required for the construction of the infrastructure improvements to be constructed pursuant to the stipulations herein, and/or (vii) 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, the terms of a written development agreement approved by the Council or a written phasing plan approved by the City Engineer or his designee, all dedications shall be made at the earlier of the following: (i) prior to or concurrent with recordation of a

final plat that includes the area in which the portion of the Property to be dedicated is located or (ii) prior to the issuance of any construction permit, including grading permits, for work of any public infrastructure Owner/Developer is required to construct; and

35. The Owner is responsible for a proportionate share of the costs for adjacent traffic signals and for additional adjacent traffic signals identified in an approved Traffic Impact Analysis/Study as being needed. Owner shall make an in-lieu payment for the cost of traffic signal adjacent to the Property. The in-lieu payment shall be made prior to the recordation of any final plat that triggers the requirement for the construction of the adjacent roadway. For instance, unless modified by a development agreement or a written phasing plan approved by the City Engineer or his designee, a final plat that includes any portions of Parcels 1, 2, 4, 5, and 6 in the Land Use Plan will trigger the requirement to construct both the Yuma Road Improvements and the Perryville Improvements and thus the in-lieu payments will have to be paid to the City prior to the recordation of such final plat. 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. Owner's traffic signal obligations include, but may not be limited to:
  - a. 25% of the full traffic signal (all four legs) at S. Perryville Road and W. Harrison Street;
  - b. 50% of the full traffic signal (all four legs) at W. Yuma Road and S. 183rd Avenue;
  - c. Any other traffic signal warranted solely on this development shall be installed, when warranted, in its entirety at the sole cost of the Owner; and
36. Prior to recordation of the first final plat subdividing all or part of the Property, Owner shall submit a cost recovery payment for the proportionate share of the cost of each regional wastewater trunk line identified in the Cost Recovery Resolution Wastewater Trunk Lines as benefitting the Property unless Owner, at Owner's sole cost, constructed 100% of such regional wastewater trunk line or Owner will be constructing 100% of such regional wastewater trunk line in connection with the development of the Property. The amount of the cost recovery payment owed for the proportionate share of each regional wastewater trunk line identified in the Cost Recovery Resolution Wastewater Trunk Lines as benefitting the Property, shall be based on the actual cost of line if it has been 100% completed subject to the maximum amount included in the Cost Recovery Resolution Wastewater Trunk Lines and shall be based on the maximum estimated amounts for such line in the Cost Recovery Resolution Wastewater Trunk Lines if 100% of the line has not been completed; and

37. Prior to recordation of the first final plat subdividing all or part of the Property, Owner shall submit a cost recovery payment for the proportionate share of the cost of each regional water delivery line identified in the Cost Recovery Resolution – Water Delivery Lines as benefitting the Property unless Owner, at Owner's sole cost, constructed 100% of such regional water deliver line or Owner will be constructing 100% of such regional water delivery line in connection with the development of the Property. The amount of the cost recovery payment owed for the proportionate share of each regional water delivery line identified in the Cost Recovery Resolution – Water Delivery Lines as benefitting the Property, shall be based on the actual cost of line if it has been 100% completed subject to the maximum amount included in the Cost Recovery Resolution – Water Delivery Lines and shall be based on the maximum estimated amounts for such line in the Cost Recovery Resolution – Water Delivery Lines if 100% of the line has not been completed; and
38. Owner shall comply with any and all Development Agreements that apply to the development of the Property in whole or in part and shall remit all payments owed pursuant to the terms of any and all Development Agreements that apply to the development of the Property in whole or in part; and
39. 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 locals laws, ordinances, rules, regulations, standards, and policies applicable to the development of the Property; and
40. 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; and
41. 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 permit for work within the Property, whichever is earlier.

## 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. 20-03 City of Goodyear, AZ – Rezone Case" declared a public record by Resolution No. 2021-2165 and which is referred to and made a part hereof as if fully set forth in this Ordinance. The "Official Supplementary Zoning Map No. 20-03 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 )  
 ) 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. 2021-1505 is a true, correct and accurate copy of Ordinance No. 2021-1505, 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