

ORDINANCE NO. 2021-1507

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 1,319.2 ACRES GENERALLY LOCATED ALONG RAINBOW VALLEY ROAD BETWEEN THE WILLIS ROAD ALIGNMENT AND QUEEN CREEK ROAD, KNOWN AS RAINBOW VALLEY; 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 1,319.2 acres located along Rainbow Valley Road from the Willis Road alignment to Queen Creek Road particularly described in that certain document entitled "Legal Description – Rainbow Valley" declared a Public Record by Resolution No. 2021-2168, 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 designated the Property as 'Neighborhoods' and the 'Neighborhoods' land use category provides areas for the growth and development of neighborhoods with a wide range of densities and housing types; and

WHEREAS, on October 22, 2018, the Goodyear City Council adopted Ordinance No. 2018-1409, rezoning 999.3 acres of the Property from the Agricultural Urban (AU) Zoning District to the Final Planned Area Development (PAD) Zoning District and adopting the Rainbow Valley PAD Development Standards Book, dated August 2018, which provided for the development of a mixed-use project known as "Rainbow Valley," which, at full build out, was expected to result in the development of approximately 2,900 residential dwelling units, commercial uses and other limited non-residential uses; and

WHEREAS, approximately 319.9 acres of the Property, which is located east of Rainbow Valley Road between Germann and Queen Creek Roads, is currently zoned Agricultural Urban (AU) Zoning District; and

WHEREAS, an application was submitted seeking to rezone the approximately 319.9 acres of the Property located east of Rainbow Valley Road between Germann and Queen Creek Roads, to incorporate it into the the Rainbow Valley development to create an approximately 1,319.2 acre development, which at full build-out is expected to result in a development of a maximum of 4,121 residential dwelling units, commercial uses and other limited non-residential uses; and

WHEREAS, the Property is not contiguous to existing City infrastructure or existing development; is not currently served by City water or wastewater facilities; and is not located within the City's Designation of Assured Water Supply; and

WHEREAS, the availability of water and wastewater services to the Property is a health and safety issue and is a critical consideration for the City in the entitlement process; and

WHEREAS, existing transportation infrastructure linking the Property to the currently developed part of the City and/or to other nearby cities and towns is minimal and insufficient to accommodate the transportation demands that will be generated by the eventual development of the Property; and

WHEREAS, ensuring connectivity between the Property and the developed areas within the City and ensuring future residents within the Property are not cut off from the existing developed areas of the City by the Waterman Wash, which runs through the Property, during storm events are health safety issues and are critical considerations for the City in the entitlement process; and

WHEREAS, parks, open space and recreation facilities are a vital component of enhancing the quality of life for the City's residents, and providing for the timely development of parks, open space and recreational amenities within the Property is an important consideration for the City in the entitlement process; and

WHEREAS, although the City anticipates that the Property will be fully served by a fire station at Willis Road and Estrella Parkway (the "Estrella Fire Station" or "Fire Station 186" actual development of the Property and surrounding area could result in response times being at unacceptable levels triggering the need for an additional fire station; and

WHEREAS, the Estrella Fire Station, is being funded in part pursuant to an agreement with two property owners that includes terms regarding contributions from other properties that will be served by the fire station; and

WHEREAS, the ability of the City to provide police and fire services to the Property within the City's desired response time goals, including having adequate secondary access routes, is a health and safety issue and a critical consideration for the City in the entitlement process; and the policy of the City's General Plan is that new development was required to pay for the additional service demands it generates, i.e. growth pays for growth, and Owner shall be responsible for all costs associated with design, construction of infrastructure identified by the City as being needed to serve the Property, including acquisition of property needed for such infrastructure; and

WHEREAS, the policy of the City's General Plan is that new development was required to pay for the additional service demands it generates, i.e. growth pays for growth, and Owner shall be responsible for all costs associated with design, construction of infrastructure identified by the City as being needed to serve the Property, including acquisition of property needed for such infrastructure; and

WHEREAS, on October 22, 2018, the Goodyear City Council passed and adopted Resolution 2018-1908 approving and authorizing the execution of the document titled Development Agreement, which agreement was amended by that certain document titled First Amendment to Development Agreement for Rainbow Valley passed and adopted by the Goodyear City Council on October 28, 2019 by Resolution 2019-2009 (collectively the "Rainbow Valley Development Agreement"); and

WHEREAS, the Rainbow Valley Development Agreement addressed Property owner's responsibilities for certain infrastructure improvements required in connection with the development of the approximately 999.3 acres of the Property rezoned by Ordinance No. 2018-1409, including responsibilities for providing a water supply; the design and construction of water and sewer infrastructure improvements; the design and construction of transportation related improvements to provide connectivity to the developed areas of city and secondary access to the 999.3 acres of the Property; financial contributions and infrastructure needed for the city to provide fire services; and open space and park related improvements; and

WHEREAS, because the development of the additional approximately 319.9 acres as part of the Rainbow Valley PAD presents the same concerns as the development of the 999.3 acres of the Property rezoned by Ordinance No. 2018-1409, the Rainbow Valley Development Agreement needs to be amended and restated to apply to the entire 1312.2 acres that will be included within the Rainbow Valley PAD upon the effective date of this Ordinance and to be modified as needed because of the inclusion of this additional approximately 319.9 acres in the Rainbow Valley PAD; and

WHEREAS, an Amended and Restated Development Agreement for Rainbow Valley is being presented to the Goodyear City Council concurrently with this Ordinance and this Ordinance shall not become effective until the resolution seeking approval of the Amended and Restated Development Agreement for Rainbow Valley is effective; and

WHEREAS, the proposed zoning is in conformance with the General Plan and should not adversely impact the surrounding area; 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 April 9, 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 August 11, 2021 appeared in the Arizona Republic Southwest Valley Edition July 23, 2021; postcards were mailed to adjoining owners on July 1, 2021; and a sign was posted on the site on June 15, 2021; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on August 11, 2021 to consider the rezoning of the property to Planned Area Development subject to 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 August 23, 2021 appeared in the Arizona Republic Southwest Valley Edition July 23, 2021; postcards were mailed to adjoining owners on July 1, 2021; and a sign was posted on the site on June 15, 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. 2021-1507 applies to approximately 1,319.2 acres of land in Goodyear, Maricopa County, Arizona, generally along Rainbow Valley Road between the Willis Road alignment and Queen Creek Road as depicted on that certain document titled "Official Supplementary Zoning Map No. 21-06A City of Goodyear, AZ – Rezone Case" and as legally described in that certain document titled "Legal Description – Rainbow Valley," both documents having been declared public records by Resolution No. 2021-2168 and which are referred to 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 rezoning from Planned Area Development (PAD) and Agricultural Urban (AU) Zoning Districts to Planned Area Development (PAD) Zoning District, by the adoption herein of that certain document titled, "Rainbow Valley 1st Amended PAD (August 2021)," which document was declared a public record by Resolution No. 2021-2168, three copies of which are on file with the City Clerk of the City of Goodyear, Arizona and which is referred to, and is adopted and made a part hereof as if fully set forth in this Ordinance.

SECTION 4. STIPULATIONS

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

1. Except as modified by the following stipulations and conditions of approval set forth herein, development of the Property shall be in compliance with the Rainbow Valley 1st Amended PAD (August 2021) which document was declared a public record by Resolution No. 2021-2168 and which is referred to, adopted, and made a part hereof as is fully set forth in this ordinance;
2. Except as modified by the stipulations and conditions set forth herein, development of the Property shall comply with the terms and conditions set forth in that certain Amended and Restated Development Agreement

for Rainbow Valley adopted by the Mayor and Council of the City of Goodyear by Resolution 2021-2175, as it may be amended and/or restated from time to time (hereinafter the “Rainbow Valley DA”);

3. The Director of Development Services and/or the City Engineer may withhold building permits, construction permits and/or certificates of occupancy for development within the Property in the event of a failure to comply with the terms and conditions of the Rainbow Valley DA or the stipulations and conditions set forth herein;
4. Approval of the rezoning does not constitute approval of the site plan or a plat. All future development will be subject to site plan review and approval or plat review and approval, 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;
5. The owner(s) of the Property (the “Property Owner”) shall, at no cost to the City, convey 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, the City of Goodyear’s Engineering Design Standards and Policies, and the stipulations and conditions set forth in this Ordinance 2021-1507; (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 for 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;

6. In addition to constructing street improvements for streets that are not within or adjacent to Property as identified in the Rainbow Valley DA, Property Owner is responsible for constructing or causing the construction of full half-street improvements within alignments of sections of streets within and adjacent to the Property as required in applicable Development Regulations in effect at the time of development. If the Property is adjacent to both sides of a street, Property Owner is responsible for constructing or causing the construction of full street (both sides) improvements (i.e. full street improvements are required to be constructed for the section of Rainbow Valley Road between Germann Road and the southern boundary of the Property. The streets Property Owner is responsible for constructing or causing to be constructed, in addition to those addressed in the Rainbow Valley DA, include, but are not limited to the sections of Queen Creek Road, and Perryville Road that are to be located adjacent to the Property. Except as otherwise provided herein or unless modified by a development agreement approved by the Goodyear City Council, the improvements that are to be constructed shall be those improvements required in the City of Goodyear Engineering Design Standards and Policies for the applicable street classification, and the improvements shall be constructed in accordance with the prevailing Engineering Design Standards at the time the improvement plans are reviewed and approved by the City Engineer, or his designee.
7. If a street Property Owner is required to construct requires a median and median landscaping, Property Owner shall construct such improvements except as provided herein. At the request of the City Engineer or as otherwise provided in a development agreement approved by the Goodyear City Council, Property Owner shall, in lieu of installing required median improvements, including median landscaping, within any street the Property Owner is required to construct, submit a payment for one-half the cost of the median improvements. The in-lieu payment shall be based upon an engineering estimate of the construction costs approved by the City Engineer, or his designee, prior to recordation of the associated final plat that triggers the requirement for the construction of such street; and
8. Property Owner is responsible for traffic signals required at intersections adjacent to the Property identified herein and for additional traffic signals at intersections adjacent to the Property identified in an approved Traffic Impact Analysis/Study as being needed as a result of the development of the Property. Property Owner shall, at the direction of the Goodyear City Engineer or his/her designee construct these signals or pay to the City of Goodyear a proportionate share of the costs of such

signals. The traffic signals for which Property Owner is responsible include, but are not limited to:

- a. Intersection of Rainbow Valley Road and Germann Road
 - b. Intersection of Perryville Road and Queen Creek Road
 - c. Intersection of Perryville Road and Germann Road
9. Except as otherwise modified herein or by a development agreement approved by the Goodyear City Council or by a written phasing plan approved by the City Engineer or his/her designee, the traffic signals Property Owner is required to construct shall be constructed with the construction of any street improvements adjacent to any corner of an intersection where the traffic signal is to be constructed. If the timing of the obligations for the construction of any required traffic signal is modified by development agreement or by a written phasing plan approved by the City Engineer, the traffic signal shall be constructed in accordance with the terms of the development agreement and/or the approved phasing plan.
10. If the City Engineer or his/her designee requires an in-lieu payment for a proportionate share of the cost of a traffic signal for which Property Owner is responsible, the in lieu payment shall be made prior to the recordation of any final plat that triggers the requirement for the construction of any street improvements adjacent to any corner of an intersection where the traffic signal is to be constructed except as modified herein or by a development agreement approved by the Goodyear City Council or a written phasing plan approved by the City Engineer or his/her designee. If the timing of the obligations for the payment of any required in-lieu payment is modified by development agreement or by a written phasing plan approved by the City Engineer, the in-lieu payment shall be constructed in accordance with the terms of the development agreement and/or written phasing plan. The in-lieu payment shall be calculated using 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 and Property Owner shall be responsible for a percentage of the full cost of a traffic signal for each leg of the signal located adjacent to the Property. For instance, if an in-lieu payment were required for the traffic signal at the intersection of Rainbow Valley, and Germann Road, Property Owner will be responsible for 75% of the cost of the traffic signal because will be a four-way intersection with signal improvements on each corner and three (3) of the corners of the intersections are adjacent to the Property. For the intersections identified in Stipulation 8 above, the Property Owner's proportionate share is as follows:
- a. 75% Intersection of Rainbow Valley Road and Germann Road

- b. 25% Intersection of Perryville Road and Queen Creek Road
 - c. 50% Intersection of Perryville Road and Germann Road
11. Property Owner shall construct a “high and dry” culvert and/or bridge crossing over the Waterman Wash within the Germann Road alignment, which shall be designed to exceed the base flood elevation with appropriate freeboard for a 100-year storm event. If the base flood elevation has not been established, Property Owner shall be responsible for preparing the reports, subject to the approval of the City Engineer or his/her designee, necessary to establish the base flood elevation for a 100-year storm event. The crossing referred to herein shall have sufficient traffic lanes to serve the estimated demands generated by the Property, which shall be determined in a City approved Traffic Impact Analysis but which shall have a minimum of two lanes. The crossing referred to herein shall be constructed and completed prior to the issuance of any building permits for vertical construction (including but not limited to building permits for model homes) south of the Waterman Wash;
 12. The T-2 Trailhead reflected in the Rainbow Valley Open Space and Trails Plan of the Rainbow Valley 1st Amended PAD (August 2021) shall be located outside of the flood plain and outside of Waterman Wash somewhere within Parcel 13 and shall be located so as to provide full and safe vehicular access into T-2 Trailhead Site off of Rainbow Valley Road;
 13. The Regional Multi-Use Paths located along the north and south sides of the portions of Waterman Wash located within the Property and the Regional Trail located adjacent to the western boundary of Parcel 22, which provides the property south of the Property access to the Regional Multi-Use Paths, as depicted in the Rainbow Valley Open Space and Trails Plan of the Rainbow Valley 1st Amended PAD (August 2021) shall be designed and constructed in conformance with the recommended guidelines for Paths in the Goodyear Path/Trail System Design Guidelines attached as an appendix to the Goodyear Parks Master Plan in effect at the time of development
 14. All crossings over the Waterman Wash that cross over the Regional Multi-Use Paths shall be designed and constructed in conformance with the recommended guidelines for Paths in the Goodyear Path/Trail System Design Guidelines attached as an appendix to the Goodyear Parks Master Plan in effect at the time of development;
 15. Except as otherwise provided in the Rainbow Valley DA, all public infrastructure improvements required to be designed, constructed, and/or installed in connection with the development of the Property shall be designed and constructed in accordance with applicable Development Regulations in effect when such infrastructure is constructed;

16. The following information shall be disclosed in the Public Sales Report and by note on the final plat, and shall be provided in a separate acknowledgment, which shall run with the land, for each initial homebuyer to sign: "Rainbow Valley is in close proximity to agricultural uses and may therefore be subject to noise, dust, and odors associated with such uses";
17. Except for the the growing of alfalfa, the growing of crops on the subject property within 50 feet of any occupied residential dwelling is prohibited. Agricultural composting is prohibited anywhere on the Property; and
18. Property Owner shall establish a homeowners association (HOA) for the residential parcels within the Rainbow Valley PAD, with said HOA owning and maintaining all private open space areas, private trails, and other private community amenities within the residential parcels, and maintaining all arterial and collector road rights-of-way landscaping abutting or within the residential parcels except for arterial median landscaping. A note shall be placed on each final plat indicating HOA ownership and maintenance responsibilities of these private tracts and public rights-of-way landscaping; and
19. The maximum number of residential dwelling units that can be developed within the Property is 4,121.

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. 20-06A City of Goodyear, AZ – Rezone Case" declared a public record by Resolution No. 2021-2168, 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. 20-06A 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 at the later of the following: thirty days after its adoption by the Goodyear City Council or the date Resolution 2021-2175 approving and adopting the Amended and Restated Development Agreement for Rainbow Valley becomes effective.

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. 2021-1507 is a true, correct and accurate copy of Ordinance No. 2021-1507, 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