

ORDINANCE NO. 2021-1517

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, REZONING APPROXIMATELY 20 ACRES OF LAND LOCATED SOUTH OF MC-85, WEST OF SOUTH COTTON LANE FROM PLANNED AREA DEVELOPMENT (PAD) AND AGRICULTURAL URBAN (AU) TO A MULTIFAMILY RESIDENTIAL USE WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR NON-ABRIDGMENT, CORRECTIONS, AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PENALTIES..

WHEREAS, the City has received a request rezone approximately 20 acres of property generally located south of MC 85, west of South Cotton Lane, as legally described in that certain document titled “Lakin Park Bungalows Legal Description” and as shown on that certain document titled “Official Supplementary Zoning Map No. 21-04,” both documents having been declared a public record by Resolution No. 2021-2178, and which documents are referred to made a part hereof as if fully set forth in this Ordinance (the “Property”); and

WHEREAS, approximately 2.8 acres of the 20 acre Property were annexed into the City of Goodyear in 2021 and is currently zoned Agricultural Urban (AU), approximately 2 acres were annexed in 1983 and zoned Agricultural Urban (AU), and the remaining approximate 15 acres were annexed in 1983 and zoned Planned Area Development (PAD) under the CP Lakin Park PAD Overlay in 2019; and

WHEREAS, the Property Owner (“Owner”) is seeking to rezone the Property (the approximate 20 acres) to MF-24 Multi-Family Residential District with a PAD Overlay; and

WHEREAS, the Property is designated as ‘Business and Commerce’ in the Land Use Plan of the City of Goodyear General Plan (Goodyear 2025); and

WHEREAS, development of the Property as mutli-family residential is consistent with the Business and Commerce designation in the City of Goodyear General Plan; and

WHEREAS, a rezoning request requires public review and approval by the Planning and Zoning Commission and the City Council. The proposed amendment is in conformance with the General Plan and should not adversely impact the surrounding area; and

WHEREAS, public notice that this rezone was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on September 15, 2021, appeared in the Arizona Republic Southwest Valley edition on August 27, 2021; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on September 15, 2021, to consider the rezone of the Property, and the Commission voted x-x to not/recommend approval of the proposed rezoning; and

WHEREAS, public notice that this rezone of the Property, is to be considered and reviewed at a public hearing held before the City Council on September 27, 2021, appeared in the Arizona Republic Southwest Valley edition on August 27, 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 BEING REZONED

This Ordinance No. 2021-1517 applies to approximately 20 acres generally located south of MC 85 west of South Cotton Lane, as legally described in that certain document titled “Lakin Park Bungalows Legal Description” and as shown on that certain document titled “Official Supplementary Zoning Map No. 21-04,” both documents having been declared a public record by Resolution No. 2021-2178, which documents are referred to made a part hereof as if fully set forth in this Ordinance (the “Property”).

SECTION 2. REZONING

The Property is conditionally rezoned to MF-24 with a planned area development overlay by the adoption herein of that certain document titled “Lakin Park Bungalows PAD Overlay Book dated August 2021, declared a public record by Resolution No. 2021-2178, which is referred to and made part hereof as if fully set forth in this Ordinance (hereinafter referred to as the “Lakin Park Bungalows PAD Overlay”).

SECTION 3. STIPULATIONS

The rezoning of the Property is subject to the following stipulations:

1. The Property shall be developed in accordance with the requirements of the City of Goodyear Zoning Ordinance as it may be amended from time to time applicable to the Multi-Family Residential Zoning District MF-24, except as modified by the Lakin Park Bungalows PAD Overlay and as further modified by the stipulations herein; and
2. Article 9 of the Zoning Ordinance imposes certain requirements applicable to development within the vicinity certain specified state freeways. Council will be presented with a request to amend Article 9 to apply to all federal and state freeways, highways and expressways. Owner shall comply with the provision of Article 9 of the Zoning Ordinance as it may be amended in effect at the time of development; and

3. If alterations of the Floodplain are required for the development of the Property, a CLOMR shall be submitted to the City Engineer prior to or concurrent with the first preliminary plat for the Property by the Goodyear City Council. A CLOMR shall be submitted to and approved by the City Engineer or his/her designee prior to submittal of any final plat and/or civil construction drawings for development within the floodplain unless a CLOMR is not required as determined by the City Engineer, in which case Owner may proceed directly to LOMR which shall be submitted and approved by the City Engineer or his/her designee before the issuance of construction permits for work within the floodplain; and
4. No final plat shall be recorded, no site plan approved and/or no construction permits issued until Owner has provided the City with all approvals and/or easements from jurisdictions or parties whose property interests will be impacted by the development contemplated by such final plat, site plan and/or construction permit. This includes, but is not limited to, approvals and/or easements that may be needed from Maricopa County Department of Transportation, Buckeye Irrigation District, and the Flood Control District of Maricopa County. All required approvals and easements shall be in a form acceptable to the City Engineer or his/her designee; and
5. The underground placement of all permanent utilities, excluding power lines 69 kV or larger, within the proposed development, and also those abutting the Development's portion of perimeter arterial streets per phase prior to issuance of the first Certificate of Occupancy, including those for model homes; and
6. With respect to the existing power poles located along the western boundary of the Property, all existing power lines on such power poles shall be placed underground and rerouted to the PUE along the front of the affected lots except that the crossings over the BID Canal, the Maricopa County Flood Control drainage channel and the APS Palo Verde water line do not need to be undergrounded but may cross over such improvements; and
7. Owner shall dedicate, lien free, at no cost to the City, and in a form acceptable to the City Attorney or his designee, all easements as required in applicable development regulations. Except as otherwise approved in a written phasing plan approved by the City Engineer or his/her designee in his/her sole discretion, such dedications shall be made at the earlier of the following: prior to the recordation of any final plat that includes the easement area to be dedicated; prior to the issuance of the first civil construction permit within the Property; or when requested by the City Engineer or designee. If a written phasing plan has been approved by the City Engineer or his/her designee the dedication required herein shall be made at the time prescribed in the phasing plan; and

8. Owner shall dedicate, lien free and at no cost to the City or to MCDOT as determined by the City Engineer, all additional right-of-way that MCDOT requires to be dedicated along the portion of the Property fronting MC85; and
9. The references to specific obligations that are addressed in the City's Development Regulations, which include but is not limited to, the requirements in the City of Goodyear Engineering Design Standards and Policies Manual, the City of Goodyear Subdivision Regulations and the City of Goodyear Zoning Ordinance, does not relieve Owner of complying with all applicable Development Regulations, even those Development Regulations that address the same matters set forth herein; and
10. 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. Owner shall construct, at Owner's sole cost all infrastructure identified in the approved Traffic Impact Analysis as being needed to support the development of the property. Owner shall dedicate at no cost to the City, the property required for the infrastructure identified in the approved Traffic Impact Analysis, which dedication shall be in fee, lien free, and unencumbered except as otherwise approved by the City Engineer.

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. 21-04," declared a public record by Resolution No. 2021-2178, and which is referred to and made a part hereof as if fully set forth in this Ordinance, and the "Official Supplementary Zoning Map 21-04," 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 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 8. EFFECTIVE DATE

This rezoning shall become effective at the later of the following: thirty (30) days from the date this Ordinance is passed and adopted by the Mayor and Council of the City of Goodyear and the date an Ordinance passed and adopted by the Mayor and Council of the City of Goodyear approving a Major General Plan Amendment designating the Property as Industrial and Business and Commerce becomes effective.

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, by a _____ vote, this _____ day of _____, 20_____.

Georgia Lord, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney