

ORDINANCE NO. 2021-1518

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 31 ACRES OF LAND LOCATED AT THE SOUTHEAST CORNER OF COTTON LANE AND GARFIELD STREET FROM THE CANYON TRAILS PHASE I PLANNED AREA DEVELOPMENT TO THE MULTIFAMILY (MF-12) ZONING DISTRICT WITH A PAD OVERLAY; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR NON-ABRIDGMENT; PROVIDING FOR CORRECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PENALTIES.

WHEREAS, the property subject to this Ordinance consists of approximately 31 acres generally located at the southeast corner of Cotton Lane and Garfield Street as more particularly described in that certain document titled "Legal Description," which document was declared public record by Resolution No. 2021-2176, and which is referred to and made a part hereof as if fully set forth in this Ordinance (the "Property");

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 Townhomes); and

WHEREAS, the General Plan Land Use Plan designates the majority of 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. The remaining portion of the property is designated as Neighborhoods providing areas for the growth and development of neighborhoods, including a wide range of densities and housing products; and

WHEREAS, this request is to rezone the Property to the Multi-Family Residential (MF-12) Zoning District with a PAD Overlay to reduce the rear yard setback from 30' to 20'; 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 Neighborhoods and the development of 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 October 13, 2021, appeared in the Arizona Republic Southwest Valley edition on September 24, 2021; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on October 13, 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 October 25, 2021, appeared in the Arizona Republic Southwest Valley edition on September 24, 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. 2021-1518 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located on the south side of Garfield Street east of Cotton Lane as legally described in that certain document titled Legal Description –Canyon Trails North, which document was declared a public record by Resolution No. 2021-2179 and which is referred to and made a part hereof as if fully set forth in this Ordinance (the “Property”).

SECTION 2. REZONING

The Property is conditionally rezoned from the PAD Zoning District to the Multi-Family Residential MF-12 Zoning District with a PAD Overlay. The PAD Overlay modifies the standards applicable to the MF-12 Zoning District to reduce the rear setback from 30’ to 20’ with the rear being the eastern boundary of the Property.

SECTION 3. 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-12 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. Any modifications to existing private irrigation facilities as a result of this development shall be coordinated with the appropriate Irrigation District/private owner.
5. 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 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, 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

6. The Owner shall construct, at no cost to the City, an 8-foot public sidewalk and a five-foot landscape buffer along the western boundary of the property between W. Garfield Street and the southern 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 such sidewalk, in form and substance acceptable to the City Attorney or his designee, 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.
7. 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 6 above (i.e. the sidewalk and landscape buffer are to be located outside the perimeter fence or wall).
8. Prior to issuance of any construction permits on the rezoned land, the Owner shall provide for the dedication of a 10-foot P.U.E, in form and substance acceptable to the City Attorney or his designee, located along the western boundary of the property between W. Garfield Street and the south boundary of the Property.
9. The Owner shall, at no cost to the City, complete the full half-street improvements required for a minor collector along the south half of W. Garfield Street between Cotton Lane and the eastern boundary of the Property. Such improvements shall include but are not limited to curb, gutter, sidewalk, paving, landscaping, landscape irrigation, street lights, signing and striping, or alternatives as may be 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 "Garfield Improvements"). Owner shall obtain all approvals required by ADOT in connection with the construction of the Garfield Improvements. 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.
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 be approved by ADOT, and the existing traffic counts shall be updated to the current year at the time of site plan approval.
11. The proposed water and wastewater utility layout, both onsite and offsite, submitted with the rezoning application is not approved. The location of all utilities shall be reviewed and determined during preliminary plat and/or site plan processes;

12. No permits shall be issued for the construction of any structure within the Property until two points of access into the Property off of public rights-of-way that are open to the public and have been constructed. If approved by Arizona Department of Transportation, one of the two public access points referred to herein shall be a right-in/right-out access off of the Cotton Lane frontage road, which shall be shared access with the property abutting the southern boundary of the Property;
13. In addition to compliance with the stipulations set forth herein, the development of the Property shall comply with the Goodyear Zoning Ordinance, the City of Goodyear subdivision regulations, the City of Goodyear's Engineering Design Standards and Policies, except as modified by the City Engineer, the Maricopa County Association of Governments standards for public works construction, and all other federal, state and local laws, ordinances, rules, regulations, standards, and policies applicable to the development of the Property; and
14. 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.
15. 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.

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 "Supplementary Zoning Map No. 21-06 Rezone from PAD to MF-12 with a PAD Overlay," declared a public record by Resolution No. 2021-2179 and which is referred to and made a part hereof as if fully set forth in this Ordinance.

SECTION 5. 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 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 Ordinance shall become effective as prescribed by law.

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