

ORDINANCE NO. 2022-1532

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 159 ACRES LOCATED WEST OF THE NORTHWEST CORNER OF INDIAN SCHOOL AND COTTON LANE FROM PLANNED AREA DEVELOPMENT (PAD) ZONING DISTRICT TO PLANNED AREA DEVELOPMENT (PAD) ZONING DISTRICT BY AMENDING ORDINANCE 2007-1082 AND THE TEN 303 BUSINESS PARK PLANNED AREA DEVELOPMENT (PAD) DATED JUNE 8, 2007, PROVIDING FOR NON-ABRIDGMENT, CORRECTIONS, SEVERABILITY, AN EFFECTIVE DATE, PENALTIES, AND DIRECTING THE CITY CLERK TO RECORD A COPY OF THIS ORDINANCE.

WHEREAS, on August 27, 2007, the Mayor and Council of the City of Goodyear adopted Ordinance 2007-1082 conditionally rezoning 159 acres of land generally located west of the northwest corner of Indian School and Cotton Lane (the "Ten 303 Property") from the Agriculture (AG) zoning district to the Final Planned Area Development (PAD) zoning district to allow for the development known as Ten 303 Business Park; and,

WHEREAS, under the conditions of Ordinance 2007-1082, the Ten 303 Property was to be developed in compliance with the development concepts and standards contained in the Ten 303 Business Park Planned Area Development (PAD) dated June 8, 2007 (the "Ten 303 Business Park PAD"); and,

WHEREAS, the Ten 303 Business Park PAD identified the areas located within the APZ II as General Industrial subject to the development standards in the Goodyear Zoning Ordinance applicable to General Industrial Park (I-2) zoning district, as modified by the Ten 303 Business Park PAD, and the remainder of the 159 acres as Light Industrial subject to the development standards in the Goodyear Zoning Ordinance applicable to Light Industrial Park (I-1) zoning district, as modified by the Ten 303 Business Park PAD; and,

WHEREAS, the Ten 303 Business Park PAD included a maximum height for development within the portion of the Ten 303 Property identified as Light Industrial Park (I-1) as 40 feet; and,

WHEREAS, one of the conditions of approval in Ordinance 2007-1082 required that a use permit be obtained before any industrial building larger than 250,000 square feet could be developed adjacent to the western boundary of the Ten 303 Property or before any industrial building could be developed that had dock-level bay doors located predominately along the western boundary of the Ten 303 Property adjacent to the neighboring property that was to be developed as Talaverde Estates; and,

WHEREAS, since the adoption of Ordinance 2007-1082, the property adjacent to the western boundary of the Ten 303 Property, which had been zoned for the residential development to be known as Talaverde estate, was rezoned to the Single Family Residential (R1-6) zoning district and a portion has been rezoned to the Agricultural Urban (AU) zoning district; and,

WHEREAS, since the adoption of Ordinance 2007-1082, the maximum height for development of property within the Light Industrial Park (I-1) zoning district as been increased to 50 feet; and,

WHEREAS, the current owner of the portion of the Ten 303 Property legally described in that certain document titled: "Legal Description of the Property," which document was declared a public record by Resolution 2022-2219, and which is referred to and incorporated as if fully set

forth herein by this reference, and which reflects the portion of the Ten 303 Property identified as Parcel 2 and designated as Light Industrial in the Ten 303 Business Park PAD ("Parcel 2"), has submitted an application to develop Parcel 2; and,

WHEREAS, because of the change in circumstances, an amendment to the zoning for the Ten 303 Property is being sought to: (i) increase the maximum height for development within the portion of the Ten 303 Property identified as Light Industrial from 40 feet to 50 feet; (ii) delete condition 17 requiring a Use Permit for development of industrial buildings within the portion of the Ten 303 Property adjacent to the western boundary of the Ten 303 Property that were in excess of 250,000 square feet or had within dock-level bay doors facing the western boundary of the Ten 303 Property; and (iii) to impose general conformance criteria for development of industrial buildings in Parcel 2 that exceed 250,000 square feet.

WHEREAS, City staff finds that the proposed amendment will not adversely impact the adjacent Single Family Residential (R1-6) zoning district area and the Agricultural Urban (AU) zoning district with the general conformance criteria recommended for future development of the portion of the 159 acres identified as Light Industrial; and

WHEREAS, a request to rezone property requires public review by the Planning and Zoning Commission and public review and approval by the City Council; and

WHEREAS, public notice that an amendment to the Ten 303 Business Park PAD, dated June 8, 2007 was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on March 16, 2022, appeared in the Arizona Republic Southwest Valley edition on February 25, 2022; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on March 16, 2022, and at that meeting the Commission voted 7 to 0 to recommend approval of the proposed amendment; and

WHEREAS, public notice that an amendment to the Ten 303 Business Park PAD, dated June 8, 2007 is to be considered and reviewed at a public hearing held before the City Council on March 28, 2022 appeared in the Arizona Republic Southwest Valley edition on February 25, 2022; and

WHEREAS, the Mayor and Council of the City of Goodyear 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;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. DESCRIPTION OF PROPERTY WITHIN REZONE

This Ordinance No. 2022-1532 amends the Planned Area Development ("PAD") zoning on the property adopted by Ordinance 2007-1082.

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. ZONING AMENDMENT

1. Ordinance 2007-1082 is amended as following:

- a. Condition 17 In Ordinance 2007-1082 requiring a Use Permit for any industrial building of 250,000 square feet or greater located adjacent to the western boundary, or for any dock-level bay doors that are predominantly on the west side of any industrial building adjacent to Talaverde Estates is hereby deleted.
- b. The Ten 303 Business Park Planned Area Development (PAD) dated June 8, 2007 referred to in Ordinance 2007-1082 (the "Ten 303 Business Park PAD") is hereby amended as follows:
 - i. The maximum height applicable to Light Industrial is amended from 40 feet to 50 feet;
 - ii. Development of the property legally described in that certain document titled: "Legal Description of the Property," which document was declared a public record by Resolution 2022-2219, and which is referred to and incorporated as if fully set forth herein by this reference, and which is designated as Light Industrial in the Ten 303 Business Park PAD ("PARCEL 2") shall be in general conformance with the following criteria:
 1. A minimum of two buildings shall be built on Parcel 2;
 2. No building constructed within Parcel 2 shall be larger than 500,000 square feet;
 3. The maximum building height of each building, as defined in the City of Goodyear Zoning Ordinance, shall be 50 feet;
 4. No dock-level bay doors or trailer parking shall face the west property line; and,
 5. A minimum 30-foot wide landscape buffer with a double row of staggered trees shall be located adjacent to the west property line.

2. Except as amended herein, all other terms and conditions set forth in Ordinance 2007-1082 and in the Ten 303 Business Park Planned Area Development (PAD) dated June 8, 2007 referred to therein shall remain in full force and effect and apply to the development of the Property rezoned by Ordinance 2007-1082.

SECTION 4. AMENDMENT TO ZONING MAP

Because this ordinance merely amends the terms of the existing PAD Zoning for the property zoned by Ordinance 2007-1082, no amendment to the Zoning Map of the City of Goodyear is required.

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 section, subdivision, sentence, clause, phrase or portion 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. The provisions of the City of Goodyear Zoning Ordinance being amended by this ordinance shall remain in full force and effect until the effective date of this ordinance.

SECTION 9. PENALTIES

Any person who violates and 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.

SECTION 10. RECORDATION

This Ordinance shall be recorded with the Maricopa County Recorder's Office.

PASSED AND ADOPTED by the Mayor and Council of the city of Goodyear, Maricopa County, Arizona, by a _____ vote, this _____ day of _____, 20_____.

Joe Pizzillo, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney