

ORDINANCE NO. 2022-1525

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 4.6 ACRES OF LAND LOCATED EAST OF THE NORTHEAST CORNER OF CENTRAL AVENUE AND VAN BUREN STREET FROM GENERAL COMMERCIAL (C-2) TO R1-A (SINGLE FAMILY ATTACHED) RESIDENTIAL 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; PROVIDING FOR PENALTIES; AND DIRECTING THE CITY CLERK TO RECORD A COPY OF THIS ORDINANCE.

WHEREAS, the property subject to this Ordinance consists of approximately 4.6 acres generally located east of the northeast corner of Central Avenue and Van Buren Street as more particularly described in that certain document titled "Exhibit B Legal Description – Thrive at Avison Goodyear" which document was declared a public record by Resolution No. 2022-2210, and which is referred to and made a part hereof as if fully set forth in this Ordinance (the "Property");

WHEREAS, the Property is currently zoned General Commercial, C-2;

WHEREAS, the General Plan Land Use designation for the Property is Neighborhoods with a Transit Oriented Development (TOD) Overlay, which provides areas for the growth and development of neighborhoods and includes a wide range of densities and housing products and denotes areas within walking distance to a major future or existing transit route;

WHEREAS, this request is to rezone the Property to the R1-A (Single Family Attached) Residential Zoning District with a PAD Overlay providing reductions in various minimum requirements otherwise applicable to development within R1-A (Single Family Attached) Zoning District;

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;

WHEREAS, the proposed rezoning is consistent with the designation of the Property in the General Plan as Neighborhoods and the development of residential will not adversely impact the surrounding area;

WHEREAS, a neighborhood meeting was held on January 19, 2022, in accordance with the city of Goodyear Citizen Review Process;

WHEREAS, there was no public opposition to the rezoning voiced at the neighborhood meeting;

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 February 16, 2022, appeared in the Arizona Republic Southwest Valley edition on January 28, 2022; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on Ordinance No. 2022-1525

February 16, 2022 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 February 28, 2022, appeared in the Arizona Republic Southwest Valley edition on January 28, 2022; 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. 2022-1525 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located east of Central Avenue, north of Van Buren Street as legally described in that certain document titled "Exhibit B Legal Description – Thrive at Avison Goodyear", which document was declared a public record by Resolution No. 2022-2210 and which is referred to and made part hereof as if fully set forth in this Ordinance (the "Property").

SECTION 2. REZONING

The Property is conditionally rezoned from the General Commercial (C-2) Zoning District to the R1-A (Single Family Attached) Residential Zoning District with a PAD Overlay by the adoption herein of that certain document titled Thrive at Avison Goodyear PAD Overlay (January 2022), which document was declared a public record by Resolution No. 2022-2210 and which is referred to and made part hereof as if fully set forth in this Ordinance.

SECTION 3. STIPULATIONS AND PLANNED AREA DEVELOPMENT OVERLAY

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

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 R1-A (Single Family Attached) Residential Zoning District as modified by Thrive at Avison PAD Overlay (January 2022), which document was declared a public record by Resolution No. 2022-2210 and which is referred to and made part hereof as if fully set forth in this Ordinance and except as modified the stipulations set forth herein; and
2. The Water and Sewer Analysis Report submitted with the application for rezoning is not approved. An updated Water and Sewer Analysis Report 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

Water and Sewer Analysis Report shall include an analysis of the existing (current conditions) of the Wells Fargo Lift Station verifying that it can adequately convey the additional proposed flows generated by the development of Property as rezoned consistent with all applicable Development Regulations, including requirements in the Engineering Design Standards and Policies Manual; and

3. The Drainage Report submitted with the application for rezoning is not approved. An updated Drainage Report 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; and
4. Proposed utility layout submitted with the rezoning application is not approved with this rezoning and must be reviewed and approved at the discretion of the City Engineer or his designee through the preliminary plat processes; and
5. Prior to the issuance of any construction permits for any work within the Property, Owner shall dedicate, lien free and at no cost to the City, a 20-foot wide sewer easement along the northern boundary of the Property; and
6. Owner shall construct, at Owner's sole cost and expense, all infrastructure improvements determined by the City as being necessary to provide water service and wastewater service to the Property, including by way of example but no limitation, upgrades to the Wells Fargo Lift Station if needed to accommodate the additional flows generated by the development of the Property as rezoned; and
7. 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;
8. Owner shall construct, at no cost to the City, all infrastructure improvements required by the City of Goodyear subdivision regulations and Engineering Design Standards and Policy Manual in effect at the time of construction;
9. Property 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 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 for 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 prior to or concurrent with recordation of the 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; and

10. In addition to compliance with the stipulations and conditions of approval 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
11. No final plat shall be recorded, no site plans 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. All required approvals and easements shall be in a form acceptable to the City Engineer or his/her designee.

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. 21-16 Rezone from C-2 to R1-A with a PAD Overlay," declared a public record by Resolution No. 2022-2210 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.

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