

ORDINANCE NO. 2022-1529

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 9.86 ACRES OF PROPERTY LOCATED AT THE NORTHEAST CORNER OF PEBBLECREEK PARKWAY AND INDIAN SCHOOL ROAD TO BE KNOWN RPS INDIAN SCHOOL AT PALM VALLEY; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR NON-ABRIDGEMENT; PROVIDING FOR CORRECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PENALTIES; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PENALTIES; AND DIRECTING THE CITY CLERK TO RECORD A COPY OF THIS ORDINANCE.

WHEREAS, this property subject to this Ordinance consists of approximately 9.86 acres and is located at the northeast corner of PebbleCreek Parkway and Indian School Road and is known as RPS Indian School at Palm Valley as more particularly described in that certain document titled "Legal Description," which document was declared public record by Resolution No. 2022-2216, and which is referred to and made a part hereof as if fully set forth in this Ordinance (the "Property"); and

WHEREAS, on November 21, 2004, the City Council conditionally approved the zoning for the Palm Valley Phase V Planned Area Development (PAD), which had approximately 38.82 of Mixed-Use Commercial (MUC) Zoning District, with the adoption of Ordinance No. 04-923; and,

WHEREAS, the approximately 9.86 acres known as RPS Indian School at Palm Valley is within a portion of the aforementioned 38.82 acres zoned as Mixed-Use Commercial (MUC) by Ordinance No. 04-923; and,

WHEREAS, the 9.86-acre site has an underlying land use of Mixed-Use Commercial (MUC), which is equivalent to the city of Goodyear's General Commercial (C-2) Zoning District; and,

WHEREAS, the General Plan Land Use Plan shows the Property designated as 'Neighborhoods'; and,

WHEREAS, this request intends to replace the commercial uses on this property with MF-12 (Multi-Family) subject to modified Development Regulations as established with the "RPS Indian School at Palm Valley Development Regulations MF-12 with PAD Overlay (January 2022)" which document was declared public record by Resolution No. 2022-2216; and,

WHEREAS, city staff finds that the proposed rezoning will not adversely impact the surrounding area as the proposed land uses will allow for the orderly growth and development of a townhouse style multi-family residential project; and

WHEREAS, a Neighborhood Meeting was conducted for this proposal and Notice of Neighborhood Meeting was provided to property owners within 500 feet of the property on September 9, 2021; and,

WHEREAS, the neighborhood meeting took place virtually on September 30, 2021 and no opposition was received; and,

WHEREAS, public notice that this rezoning 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 postcards were mailed to adjoining owners on February 17, 2021; and a sign was posted on the site on February 18, 2022; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on March 16, 2021, and at that meeting the Commission voted (TBD-TBD) to recommend approval/denial 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 March 28, 2022 appeared in the Arizona Republic Southwest Valley Edition February 25, 2022; postcards were mailed to adjoining owners on February 17, 2022; and a sign was posted on the site on February 18, 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.

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 BEING REZONED

This Ordinance No. 2022-1529 applies to approximately 9.86 acres located at the northeast corner of PebbleCreek Parkway and Indian School Road and legally described in that certain document titled "Legal Description," which document was declared public record by Resolution No. 2022-2216, and which is referred to and made a part hereof as if fully set forth in this Ordinance (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 rezoned to the Planned Area Development (PAD) Zoning District with an underlying zoning district of MF-12 with a Planned Area Development Overlay as set forth in the RPS Indian School at Palm Valley Development Regulations MF-12 with PAD Overlay (January 2022), which document was declared public record by Resolution No. 2022-2216, and which is hereby adopted, referred to and made a part hereof as if fully set forth in this Ordinance (the "RPS Indian School at Palm Valley Development Regulations MF-12 with PAD Overlay (January 2022)").

SECTION 4. STIPULATIONS

The rezoning of the Property is subject to 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 Multi-Family Residential Zoning District MF-12, except as modified by the RPS Indian School at Palm Valley Development Regulations MF-12 with PAD Overlay (January 2022), and except as modified the stipulations set forth herein; and
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; and
3. All Public Sales Reports for the Property, all final plats subdividing all or part of the Property, and all rental agreements for the rental of any unit within the Property shall include disclosures that the Property is subject to attendant noise, vibrations, dust, and all other effects that may be caused by overflight and by the operation of aircraft landing at, or taking off from, Luke Air Force Base. A note to this effect shall be included in all final plats subdividing all or part of the Property; and
4. Signage shall be posted within all sales and rental office offices identifying the location of the Luke Air Force Base: Accident Potential Zones (APZs), 65 Ldn and higher noise contours, departure corridors, and vicinity boundary. This display shall include a 24-inch x 36-inch map at the main entrance of such sales and rental offices and shall include the approximate locations of the Luke Air Force Base: Accident Potential Zones (APZs), 65 Ldn and higher noise contours, departure corridors, and vicinity boundary and all of the buildings on the Property; and
5. The Property Owner ("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; and
6. Owner shall construct, at no cost to the City, all infrastructure improvements required by the City of Goodyear subdivision regulations, all Building Codes and Regulations adopted by city, and Engineering Design Standards and Policy Manual in effect at the time of construction; and

7. Owner shall dedicate, at no cost to the city, all rights-of-way and/or easements within the boundaries of the Property that is: (i) needed for the construction of infrastructure improvements required for the City to provide water and wastewater services to the Property; (ii) needed for existing public infrastructure, including sidewalks, turn lanes, and bus-bays; (iii) 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; (iv) required for the construction of improvements for which Owner is responsible for making in-lieu payments; (v) required to be dedicated pursuant to any development agreement with the City regarding the development of the Property; (vi) required for the construction of the infrastructure improvements to be constructed pursuant to the stipulations herein, and/or (vii) 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 prior to or concurrent with recordation of a final plat or approval of a site plan that includes the area in which the dedicated property is located or when requested by the City Engineer or his/her designee, whichever is earlier; and
8. 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, all Building Codes and Regulations adopted by the City of Goodyear, and all other federal, state and locals laws, ordinances, rules, regulations, standards, and policies applicable to the development of the Property; and
9. Owner, at Owner's sole cost and expense shall provide the City with a secondary access easement for emergency services in a form approved by the City Attorney or his/her designee if such

easement is required to be provided pursuant to any applicable Development Regulation, including but not limited to the Fire Code, Owner. If a required secondary access easement requires an easement over property outside the boundaries of the Property, Owner, at Owner's sole cost and expense shall provide the City with the required easement in a form approved by the City Attorney or his/her designee; and

10. The references to specific obligations that are addressed in the City's Development Regulations, which include but are not limited to, the requirements in the City of Goodyear Engineering Design Standards and Policies Manual, the City of Goodyear Subdivision Regulations, the City of Goodyear Zoning Ordinance, and the Building Codes and Regulations adopted by the City of Goodyear, does not relieve Owner of complying with all applicable Development Regulations.

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. AMENDMENT TO ZONING MAP

The Zoning Map of the City of Goodyear is hereby amended to reflect the rezoning set forth in Section 3 of this Ordinance by the adoption of that certain document titled, "Supplementary Zoning Map No. 21-12," declared a public record by Resolution 2022-2216, and which is referred to and made a part hereof as if fully set forth in this Ordinance, and such amendment to the Zoning Map shall be filed with the City Clerk in the same manner as the Zoning Map of the City of Goodyear.

SECTION 7. 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 8. 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 9. EFFECTIVE DATE

This Ordinance shall become effective as prescribed by law.

SECTION 10. 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 11. 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