

## **ORDINANCE NO. 2022-1544**

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 1,327 ACRES OF PROPERTY GENERALLY LOCATED NORTHWEST OF WILLIS ROAD BETWEEN ESTRELLA PARKWAY AND RAINBOW VALLEY ROAD; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR, PROVIDING FOR NON-ABRIDGMENT, CORRECTIONS, SEVERABILITY AND PENALTIES; PROVIDING FOR AN EFFECTIVE DATE AND REQUIRING THE RECORDATION OF THIS ORDINANCE.

WHEREAS, the property subject to this ordinance consists of approximately 1,327 acres generally located northwest of Willis Road between Estrella Parkway and Rainbow Valley Road as more particularly described in that certain document titled "Legal Description Montecito 2" and as shown on that certain document titled Supplementary Zoning Map No. 21-10A both documents having been declared public records by Resolution 2022-2251, and which are referred to and incorporated herein by this reference (the "Property"); and

WHEREAS, the Property was included within Ordinance No. 88-257, which rezoned approximately 5,493 acres in the area from the Narramore Road alignment on the north, the Litchfield Road alignment on the east, the Pecos Road alignment to the south and Rainbow Valley Road on the west, which included the Property, to the Planned Area Development District for the Estrella Phase II Final PAD; and

WHEREAS, a portion of the property included within the Estrella Phase II Final PAD and which includes a portion of the Property, was rezoned by Ordinance No. 03-864, which created an employment district with additional criteria in regards to the Rainbow Valley Water Reclamation Facility; and

WHEREAS, on October 12, 2004, the City Council adopted Ordinance No. 04-917, rezoning approximately 1,317 acres within the Estrella Phase II Final PAD to establish the Estrella Mountain Ranch Villages VII and IX PAD Amendment, which has been developed under the name of Montecito; and

WHEREAS, an approximate 512 acres included within the Estrella Mountain Ranch Villages VII and IX PAD Amendment was amended by Ordinance No. 08-1114 adopted by the City Council on May 12, 2008 which established a new development plan, modified some of the development standards, and reallocated dwelling units among undeveloped parcels pursuant to the Montecito Phase 3 PAD Amendment; and

WHEREAS, on May 19, 2014, the City Council adopted Ordinance No. 14-1295, which amended the density of parcels 7.1, 9.8, and 9.9; and

WHEREAS, on February 13, 2017, the City Council adopted Ordinance No. 17-1339, which amended the density for parcel 7.5; and

WHEREAS, on January 22, 2018, City Council adopted Ordinance No. 2018-1380 rezoning approximately 1327 acres in which Council adopted the Montecito PAD Amendment Regulatory Standards Booklet, dated January 3, 2018 (the "2018 Montecito PAD"), which replaced the Villages VII and IX PAD (Ordinance No. 04-917) as amended by the Montecito Phase 3 PAD (Ordinance No. 08-1114) as applied to all of the property rezoned by Ordinance No. 2018-1380; and

WHEREAS, the proposed rezoning amends the rezoning adopted by Ordinance 2018-1380 by: changing the residential zoning designation of parcels 9.18, 9.21 and 9.42 from the residential zoning designation of SFD-60 (Single Family Detached) to SFD/A (Single-Family Detached, Zero Lot, Alley Loaded, Townhome, Duplex/Triplex); changing the residential zoning designation of Parcel 9.7 from SFD-60 to SFD-50 one parcel from the residential zoning designation of SFD-60 (Single Family Detached) to SFD-50 (Single Family Detached; Zero Lot; Alley Loaded); and modifying stipulation 6 of Ordinance 2018-1320 regarding the timing for the completion of park improvements; and

WHEREAS, the Montecito PAD Amendment Regulatory Standards Booklet, dated January 3, 2018 (the "2018 Montecito PAD") has been revised to incorporate the proposed amendment to the residential zoning designation for parcels 9.18, 9.21, 9.42 and 9.7 as reflected in that certain document titled Montecito Planned Area Development Regulatory Standards Booklet dated May 2022, which document was declared a public record by Resolution No. 2022-2251 and which is referred to and made a part hereof as if fully set forth in this Ordinance; and

WHEREAS, on March 2, 2022, in accordance with the Goodyear Zoning Ordinance Citizen Review section, a neighborhood meeting was held for the purpose of discussing the proposed Montecito PAD Amendment; and

WHEREAS, in response to concerns raised during the neighborhood meeting, the property owner agreed to certain modifications to the development standards as applied to the three parcels that were being designated as SFD/A (Parcels 9.18, 9.21, and 9.42); specifically the property owner agreed that only single family detached homes would be constructed within these parcels , and the owner agreed that lots within these parcels would have minimum width of 47 feet, a minimum depth of 110 feet and buildings within these parcels would be no more than two stories and would be no more than 30 feet in height; and

WHEREAS, on August 17, 2022, in the manner prescribed by law, the city of Goodyear Planning and Zoning Commission held a public hearing on Case No. 21-200-00010 for the purpose of considering this Amendment; and

WHEREAS, due and proper notice of such public hearing before the city of Goodyear Planning and Zoning Commission and City Council was given in the time, form, substance and manner provided by law, including publication of such notice in the ARIZONA REPUBLIC SOUTHWEST EDITION on July 29, 2022; and

WHEREAS, the city of Goodyear Planning and Zoning Commission has/has not recommended to the Mayor and City Council of the city of Goodyear, Arizona, approval of the Montecito PAD Amendment; and

WHEREAS, on August 29, 2022, in the manner provided by law, the city of Goodyear City Council held a public hearing on Case No. 21-210-00010 for the purpose of considering this Amendment; 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. 2022-1544 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located northwest of Willis Road between Estrella Parkway and Rainbow Valley Road as legally described in that certain document titled Legal Description – Montecito 2, which document was declared a public record by Resolution No. 2022-2251 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 from Planned Area Development (PAD) to Planned Area Development (PAD) Amended.

SECTION 4. STIPULATIONS

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

1. Except as modified by the following stipulations and conditions of approval set forth herein, all development of the Property shall be in compliance with the Montecito Planned Area Development Regulatory Standards Booklet dated May 2022, which document was declared a public record by Resolution No. 2022-2251 and which is hereby adopted, referred to and made a part hereof as if fully set forth in this Ordinance (the “2022 Montecito PAD”);
2. Parcels 9.18, 9.21, and 9.42 shall be limited to single family detached homes;
3. Lots within Parcels 9.18, 9.21, and 9.42 shall have minimum width of 47 feet, a minimum depth of 110 feet and buildings within these parcels shall be no more than two stories and shall be no more than 30 feet in height;
4. Except as expressly modified in the 2022 Montecito PAD, all development within the Property shall comply with the requirements of Articles 4, 5, 6, 7, 8, and 10 of the City of Goodyear Zoning Ordinance, adopted May 1999, as amended;
5. Parcels 9.13, 9.14, and 9.17 shall have a minimum lot depth of 100 feet;
6. The maximum number of dwelling units within the Property shall not exceed 3,634;
7. Except as otherwise modified herein, park and open spaces area, including the parks adjacent to the designated school sites, shall be

improved in conjunction with the construction of infrastructure of the parcels by the developer. The park that is to be developed within Parcel 9.23 shall be constructed in conjunction with vertical construction in connection with the recordation of the final plat subdividing all or part of the Property that includes the 351<sup>st</sup> lot created by all final plats recorded after the date this Ordinance is adopted, as approved by the Zoning Administrator. (For example, if a final plat is recorded for Parcel 9.40 creating 105 lots followed by the recordation of a final plat for parcel 9.17, creating 184 lots and then a final plat for Parcel 9.42 is recorded creating 150 lots, the recordation of the final plat for Parcel 9.42 will trigger the obligation to construct the park in Parcel 9.23 because it will include the 351<sup>st</sup> lot ( $105 + 184 + 150 = 439$ )) Park and open spaces areas, except for those areas (if any) that are conveyed to the City or school district, shall be privately owned and maintained by the Homeowners Associations;

8. Developer shall provide for the dedication of any necessary easements and rights-of-way, in form and substance acceptable to the City, prior to issuance of any construction permits on the rezoned land within each phase of development;
9. The under-grounding of all utilities within and abutting the proposed Montecito development per phase prior to issuance of construction permits, excluding power lines of 69 kv or larger;
10. Development shall be limited to those areas with 20% slope or less;
11. All lots adjacent to common open spaces that have view fences will be required to complete their rear yard landscaping within ninety (90) days of the issuance of a certificate of occupancy;
12. The developer shall construct or cause construction of trail systems within the Property in conjunction with subdivision improvements for parcels abutting the trail system;
13. The developer shall be responsible for full half-street improvements along Estrella Parkway, Willis Road, and Rainbow Valley Road at time of adjacent property development or as otherwise approved through a phasing plan by the City Engineer, or designee;
14. The developer or their successor in interest shall be responsible for a proportionate share of the cost to install all traffic signals required to facilitate the development of Montecito. The developer shall either construct the signals when warranted, or pay the proportionate share for the cost to design and install the required signals to the City within 60 days after approval of a traffic warrant by the City Traffic Engineer, or his designee. The developer or their successor in interest may receive development impact fee credits for the contributed costs for these traffic signals at the time of development if such credits are available and applicable to the property development;
15. The public sales report and final plats for Parcels 9.20, 9.21, 9.22, 9.24A, 9.24B shall include a statement that the lots within the subdivision are subject to attendant noise, odor, and all other effects that may be caused by the Rainbow Valley Wastewater Treatment Facility and adjacent

business park uses. The developer or successor shall provide for a waiver agreement, which shall run with the land, for each initial property buyer to sign, and shall include the following statement in the waiver agreement, "Montecito, parcels 9.20, 9.21, 9.22, 9.24A, and 9.24B may be subject to attendant noise, odor, and all other effects that may be caused by the Rainbow Valley Wastewater Treatment Facility and adjacent business park uses. The owner does release and discharge the City of Goodyear, the developer, and the homebuilder from any liability from any claims for future damages to persons or property or complaints of any kind that may arise at any time in the future from the operation of the Rainbow Valley Wastewater Treatment Facility and adjacent business park uses";

16. The owner/developer shall erect signs on all Multifamily (MF), Commercial (C), and Business Park (BP) parcels informing the public of planned future development of these parcels. Such signs shall be a minimum of 32 square feet in size and shall be installed along the street frontages of the parcels within reasonable view of the general public; and,
17. A minimum of 15% of each parcel, as they develop, shall be designated as open space with at least 75% of the open space being useable open space for passive and active recreational opportunities;
18. Except as provided herein, no final plat subdividing all or part of the Property shall be approved and no construction permits shall be issued for any work on the Property until both of the following conditions have been satisfied: (1) The Rainbow Valley WRF, has been modified or expanded and permitted to treat average day wastewater flows in amounts equal to or greater than 0.75 million gallons per day (mgd) (the "Rainbow Valley WRF Expansion(s)"); and (2) capacity resulting from the Rainbow Valley WRF Expansion(s) is available, that is, the capacity resulting from the Rainbow Valley WRF Expansion(s) has not been committed to serve other developments with final plat or site plan approvals. Upon the written consent of the City Engineer or his designee, final plat(s) subdividing all or part of the Property and/or construction permits may be issued prior to the completion of the Rainbow Valley WRF Expansion(s) if a Rainbow Valley WRF Expansion is under construction and the City Engineer or his designee determines that the Rainbow Valley WRF Expansion will be completed prior to when wastewater services to the Property will be needed and that capacity resulting from the Rainbow Valley WRF Expansion(s) is available to serve the property; and
19. The Master Sewer and Water Reports submitted in association with this application for rezoning are not approved. The master reports shall be reviewed and approved during the preliminary plat and/or site plan processes.

## SECTION 5. AMENDMENT OF 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, "Official Supplementary Zoning Map No. 22-10A, declared a public record by Resolution 2022-2251 and which is hereby adopted, 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 6.     RECORDATION

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

SECTION 7.     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 8.     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 9.     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 10.   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 11.   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\_\_\_\_\_.

\_\_\_\_\_  
Joe Pizzillo, Mayor

Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM:

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Darcie McCracken, City Clerk

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Roric Massey, City Attorney