

ORDINANCE NO. 2022-1549

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY FIVE ACRES OF PROPERTY LOCATED AT THE NORTHEAST CORNER OF PEBBLECREEK PARKWAY AND MCDOWELL ROAD TO BE KNOWN AS THE LINCOLN AT ESTRELLA FALLS; 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 PENALTIES; AND DIRECTING THE CITY CLERK TO RECORD A COPY OF THIS ORDINANCE.

WHEREAS, the property subject to this Ordinance consists of approximately 5 acres and is located at the northeast corner of PebbleCreek Parkway and McDowell Drive and is known as The Lincoln at Estrella Falls as more particularly described in that certain document titled "Legal Description," which document was declared public record by Resolution No. 2022-2259, and which is referred to and made a part hereof as if fully set forth in this Ordinance (the "Property"); and,

WHEREAS, on February 14, 2000, the City Council conditionally approved the Final Planned Area Development (PAD) for Goodyear Planned Regional Center with the adoption of Ordinance No. 00-679; and,

WHEREAS, this request intends to replace the commercial uses on this property with multi-family residential by rezoning the property to the Planned Area Development (PAD) Zoning District with an underlying zoning district of MF-18 Multi-family Residential Zoning District with a Planned Area Development Overlay that will modify the development standards applicable to MF-18 Multi-family Residential Zoning District; and,

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

WHEREAS, the 'Business and Commerce' land use does allow for the consideration of multi-family residential; and,

WHEREAS, a Notice of Application was mailed to all owners within 500 feet of the property on June 28, 2022; 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 September 14, 2022, appeared in the Arizona Republic Southwest Valley edition on August 26, 2022 and postcards were mailed to adjoining owners on August 27, 2022 and signs were posted to the site on August 24, 2022 to notify residents of the scheduled public hearing; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on September 14, 2022, 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 September 26, 2022 appeared in the Arizona Republic Southwest Valley Edition August 26, 2022; postcards were mailed to adjoining owners

on August 27, 2022; and signs on were posted to the site on August 24, 2022 to notify residents of the scheduled public hearing; 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. 2022-1549 applies to approximately five acres located northeast of PebbleCreek Parkway and McDowell Road and legally described in that certain document titled “Legal Description,” which document was declared a public record by Resolution No. 2022-2259, 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-18 with a Planned Area Development Overlay by the adoption herein of that certain document titled “The Lincoln at Estrella Falls Development Regulations MF-18 with PAD Overlay (April 2022)” which document was declared a public record by Resolution No. 2022-2259, and which is referred to and made a part hereof as if fully set forth in this Ordinance.

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-18, except as modified by “The Lincoln at Estrella Falls Development Regulations MF-18 with PAD Overlay (April 2022)”, which document was declared public record by Resolution No. 2022-2259, and which is hereby referred to and made a part hereof as if fully set forth in this Ordinance 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 and minor land divisions subdividing all or part of the Property, and all rental agreements for the rental of any unit within the Property shall include the following disclosures:
 - a. The Property is in close proximity to agricultural uses and may therefore be subject to noise, dust, and odors associated with such uses; and
 - b. 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 and or the Phoenix-Goodyear Airport; and
 - c. The Property is subject to food smells, noise, cheering, paddles or bats making contact with balls, bouncing balls, splashes, fireworks and other loud noises commonly associated with recreation centers, parks, shopping centers, ballpark/sports complexes and the like; and
 - d. The property owner/developer/lessor shall disclose that the Property is subject to community events on adjacent public rights-of-way and open spaces.

All final plats and minor land divisions subdividing all or part of the Property shall include notes setting forth the foregoing requirements; 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. Site and building design shall incorporate the colors, materials and architectural styles as established within the existing The Market at Estrella Falls as well as provide appropriate transitions between the existing adjacent buildings within the overall center; and
6. Signage shall be in substantial conformance with the requirements of the current Estrella Falls Comprehensive Sign Package or an amendment to the Estrella Falls Comprehensive

Sign Package must be requested and approved by City Council;
and

7. Site wall style shall complement existing walls in The Market at Estrella Falls; and
8. If walls or fencing are constructed, full view or partial view fencing shall be used between the multi-family apartments and commercial center, except where screening of mechanical equipment and trash enclosures is necessary; and
9. Site lighting, pavers, landscaping, signage design, and other community features shall complement the existing improvements at The Market at Estrella Falls; and
10. The multi-family residential apartment development shall bear the name of the master plan such as "<Multi-family Project Name> at Estrella Falls"; and
11. All multi-family residential apartment building design shall incorporate four-sided architecture; and
12. The south, west and east facing ground floor facades shall include deviations in appearance such as changes in color, materials, texture, or inclusion of architectural feature such as windows, shade awning, or pop-out at least every 30 feet; and
13. The minimum trash enclosure setback from residential buildings on the Property shall be 20 feet. Trash enclosures shall be visually screened, be oriented away from the residential buildings on the Property, and when near a residential building on the Property, shall contain landscaping between the trash enclosure and the residential building. Trash enclosures shall not be located within the landscape buffers for the property; and
14. The Private Open Space, required per individual unit, shall be a minimum of 285 square feet; and
15. The minimum 15-foot-wide landscape buffer that is to be installed along the northern, western, and eastern boundaries of the Property as described within the "The Lincoln at Estrella Falls Development Regulations MF-18 with PAD Overlay (April 2022)" under 'General' shall be measured from back-of-curb or, if there is a sidewalk from back-of-sidewalk. Under the current zoning, (the Final Planned Area Development (PAD) for Goodyear Planned Regional Center) the Property was part of the Market at Estrella Falls, which is intended to be an integrated development. To maintain that integration, the sidewalks located on the western portion of the Property, closest to the back of curb for the existing drive-aisle/entry road for the center, shall remain open to the

public to provide access to the remainder of the Market at Estrella Falls; and

16. Where residential buildings interface the commercial center and Bullard Wash, the residential buildings shall not be fronted with “back of house” type features, such as carriage garages or largely walled off patios. Instead, the residential buildings shall be designed to be pedestrian-oriented or fronted by the narrowest section of the apartment buildings or ground-level pedestrian accessible patios, thus providing gaps in which pedestrians can traverse between the Property, the adjacent commercial center and the Bullard Wash; and
17. To provide visual and pedestrian connectivity to the remaining Market at Estrella Falls and Bullard Wash, a minimum of one of the multi-family residential buildings shall front or side the western boundary of the Property and a minimum of one of the multi-family residential buildings shall front or side the eastern boundary of the Property; and
18. All ground floor patios of residential units that are located adjacent to the western perimeter sidewalk shall have gates and sidewalks/paths to provide direct access to the sidewalk; and,
19. A minimum of two pedestrian connections accessible to all residents within the Property shall be provided from the Property to the Bullard Wash Trail, and those connections shall contain shaded seating areas on the perimeter of the complex, adjacent to the trail; and
20. All ground floor patios of residential units that are located adjacent to the Bullard Wash Trail shall have gates and sidewalks/paths to provide direct access to at least two required pedestrian connections to the Bullard Wash Trail. Any pedestrian connection that shall connect to the Bullard Wash Trail shall be coordinated with the Parks and Recreation Department and approved by the City of Goodyear. Any landscape damaged or needing to be removed/relocated shall be coordinated and approved by the Parks and Recreation Department; and
21. A minimum of two pedestrian connections accessible to all residents within the Property shall be provided to the sidewalk along the western perimeter of the property, and those connections shall contain a shaded seating area on the perimeter of the complex adjacent to the sidewalk; and
22. Pedestrian connections through the parking lot or drive aisles shall be clearly marked with enhanced paving such as pavers, colored concrete, stamped concrete or other approved material; and

23. A multi-family activity center shall be located along the western, eastern or southern boundary of the property or within view of the entrance of the multi-family development. To facilitate pedestrian activity to the nearest commercial development, additional amenities shall be included along the western or eastern boundary of the property or within view of the entrance of the multi-family development.

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, "Official Supplementary Zoning Map No. 22-10," declared a public record by Resolution 2022-2259, 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