

ORDINANCE NO. 2023-1561

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 152 ACRES OF PROPERTY LOCATED WEST OF BULLARD AVENUE ALONG MCDOWELL ROAD TO BE KNOWN AS GSQ REGIONAL CENTER; 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; AND DIRECTING THE CITY CLERK TO RECORD A COPY OF THIS ORDINANCE.

WHEREAS, this property subject to this Ordinance consists of approximately 152 acres and is located west of Bullard Avenue along McDowell Road as more particularly described in that certain document titled "Legal Description," which document was declared public record by Resolution No. 2023-2278, and which is referred to and made a part hereof as if fully set forth in this Ordinance (the "Property"); and

WHEREAS, A portion of the Property subject to this rezoning request was rezoned to Planned Area Development (PAD) on February 14, 2000 by Ordinance No. 00-679 to be developed in accordance with the Goodyear Planned Regional Center Planned Development dated November 9, 1999 as amended by Ordinance 00-679; and another portion of the Property was rezoned to Planned Area Development (PAD) on July 10, 2006 by Ordinance 06-1019 to be developed in accordance with the Goodyear Planned Regional Center Planned Development dated November 9, 1999 as amended by Ordinance 00-679; and

WHEREAS, the underlying land use designation under the current zoning is commercial; and

WHEREAS, the land use designation in the Goodyear 2025 General Plan for the Property is 'Business and Commerce'; and,

WHEREAS, this request is to rezone the Property to the Planned Area Development Zoning District and adopt the "GSQ Regional Center Planned Area Development (February 2023)" to allow for a 152-acre mixed-use retail, entertainment and residential development; 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 Village Center which includes the development of the long-planned regional center; and

WHEREAS, an in-person Neighborhood Meeting was conducted for this proposal and Notice of the Neighborhood Meeting was provided to property owners within 500 feet of the property on October 1, 2022 and signs advertising the Neighborhood Meeting was posted to the site on September 30, 2022; and,

WHEREAS, the neighborhood meeting took place, in-person, on October 18, 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 February 15, 2023, appeared in the Arizona Republic Southwest Valley edition on January 27, 2023; postcards were mailed to adjoining owners on January 20, 2023; and signs on the site were updated on January 19, 2023 to notify residents of the scheduled public hearing; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on February 15, 2023.

WHEREAS, at the Planning and Zoning Commission, upon conclusion of the staff presentation, one resident expressed concerns for setbacks along Goodyear Way and how residents would be able to walk along that roadway meeting one resident voiced; and

WHEREAS, at the conclusion of the Public Hearing, the Commission voted (7-0) to recommend approval 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 February 27, 2023 appeared in the Arizona Republic Southwest Valley Edition on January 27, 2023; postcards were mailed to adjoining owners on January 20, 2023; and signs on the site were updated on January 19, 2023 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. 2023-1561 applies to approximately 152 acres located west of Bullard Avenue along McDowell Road and legally described in that certain document titled "Legal Description," which document was declared public record by Resolution No. 2023-2278, and which is hereby adopted, 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 by the adoption herein of that certain document titled "GSQ Regional Center Planned Area Development (February 2023)" which document was declared public record by Resolution No. 2023-2278, and which is hereby adopted, referred to and made a part hereof as if fully set forth in this Ordinance (the "GSQ PAD").

SECTION 4. STIPULATIONS

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

1. Development of the Property shall comply with the GSQ PAD as modified by the following stipulations and conditions of approval and the Street Cross Sections and Supplemental Design Guidelines that are to be approved as set forth herein and in the GSQ PAD; and
2. The rezoning submittal included site plan level details. No site plan or any of the site plan level details are approved with this rezoning, which includes but is not limited to the preliminary sewer, water, and drainage designs, including the statements as to the water and sewer lines that will serve the Property and the existence of water and sewer capacity, phasing plans, grading and drainage plans, and circulation plans. All future development within the Property shall 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, utility lay out, lighting, infrastructure, parking, access, and circulation; and
3. The Traffic Impact Analysis/Study submitted with the application for rezoning is not approved. Except as provided in stipulation 4 below, prior to the approval of any Site Plan, preliminary plat and/or application for a construction permit for development within the Property, Owner shall submit a Master Traffic Impact Analysis/Study that complies with all of the requirements in the Engineering Design Standards and Policies Manual and includes the build out of all of the Property subject to this rezoning based on the anticipated land use and density (the "Master TIA"). The Master TIA shall identify all necessary infrastructure improvements needed to accommodate the traffic demands resulting from the development of the Property, which includes by way of example, new streets, traffic signals within or adjacent to the boundaries of the Property, and modifications of existing street improvements (collectively the "Transportation Infrastructure"). Updated Traffic Impact Analyses/Studies that comply with all of the requirements in the Engineering Design Standards and Policies Manual (the "Updated TIA") shall be submitted with each subsequent application for a site plan, preliminary plat or minor land division. The Updated TIA shall identify additional Traffic Infrastructure required as a result of deviations in actual development of the Property from the assumptions underlying the Master TIA. Except as otherwise provided herein or in a written development agreement approved by the Goodyear City Council, Owner, at Owner's sole cost, shall construct all Transportation Infrastructure identified in the Master TIA or any Updated TIA; and
4. Notwithstanding the requirements set forth in stipulation 3 above, the requirements that a Master Traffic Impact Analysis/Study be approved prior to approval of any Site Plan and/or application for a construction permit for development within the Property may, at

the discretion of the City Engineer or his/her designee, be waived under the following conditions. The waiver provided herein shall apply only to the approvals of Site Plans and/or applications for construction permits for development within the Property that meets all of the following requirements:

- a. The application(s) for the Site Plans and/or construction permits shall have been submitted within six (6) months of the effective date of this Ordinance; and
- b. The waiver shall apply to the development of no more than three primary structures; and
- c. Access to the proposed development will be off of an existing public roadway OR the applicant has proposed the construction of temporary drive aisles to provide access to the proposed development from an existing public roadway and the City Engineer or his/her designee has determined that the proposed drive aisles provide sufficient access to the proposed development;

and

5. Except as otherwise provided in this Ordinance 2023-1561, prior to the submission and approval of any Site Plan, preliminary plat, minor land division, and/or application for a construction permit for development within the Property, Street Cross-Sections and Supplemental Design Guidelines that include all of the elements discussed in the GSQ PAD, including, but not limited to, a Comprehensive Street Package, shall be submitted and approved as set forth in the GSQ PAD. The Street Cross-Sections and Supplemental Design Guidelines, shall include requirements that are consistent with the terms of the GSQ PAD and design features and enhancements befitting the unique nature of this development, and shall be approved as set forth in the GSQ PAD. Reviews of the Street-Cross Sections and Supplemental Design Guidelines may run concurrently with reviews of Site Plans, preliminary plats, minor land divisions, and/or applications for construction permits provided the Street Cross-Sections and Supplemental Design Guidelines are submitted prior to the submittal of Site Plans, preliminary plats, minor land divisions, and/or applications for construction permits; and
6. The Zoning Administrator or designee, at his/her sole discretion, may waive the requirements that Street Cross-Sections and Supplemental Design Guidelines that include all of the elements discussed in the GSQ PAD, including, but not limited to, a Comprehensive Street Package, be submitted prior to the submission and approval of any Site Plan, preliminary plat, minor land division, and/or application for construction permit for development with the Property under the following conditions. The waiver provided herein shall apply only to the approvals of

site plans, preliminary plats, minor land divisions, and/or applications for construction permits for development within the Property that meets all of the following requirements:

- a. The application(s) for the Site Plan, preliminary plat, minor land division, and/or application for construction permits shall have been submitted within six (6) months of the effective date of this Ordinance; and
- b. The waiver shall apply to the development of no more than three primary structures; and
- c. Prior to the issuance of any building permits for the three primary structures to which this waiver may apply, the applicant has submitted to and received approval by the Zoning Administrator or designee, in his/her sole discretion, of design standards for such primary structures;

and

7. The Preliminary Sewer Report/Memo submitted with the application for rezoning is not approved. An updated Preliminary Sewer 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 shall be approved by the City Engineer or his/her designee prior to the approval of such preliminary plat and/or site plan and prior to the issuance of any permit for work within the Property except for an at-risk grading permit, which may be issued at the discretion of the City Engineer or his/her designee; and
8. The Preliminary Water Report/Memo submitted with the application for rezoning is not approved. An updated Preliminary Water 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 shall be approved by the City Engineer or his/her designee prior to the approval of such preliminary plat and/or site plan and prior to the issuance of any permit for work within the Property except for an at-risk grading permit, which may be issued at the discretion of the City Engineer or his/her designee; and
9. The Preliminary Drainage Report/Memo submitted with the application for rezoning is not approved. An updated Preliminary Drainage Report for the development of the Property 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 shall be approved by the City Engineer or his/her designee prior to the approval of such preliminary plat and/or site

plan and prior to the issuance of any permit for work within the Property except for an at-risk grading permit, which may be issued at the discretion of the City Engineer or his/her designee; and

10. Unless all or part of W. Monte Vista Drive is constructed by others, Owner shall construct the full street improvements, (the northside and southside) of W. Monte Vista Drive between N. 150th Drive and N. Bullard Avenue. W. Monte Vista Drive shall be constructed in accordance with the Street Cross-Section for W. Monte Vista Drive and the Supplemental Design Guidelines approved as discussed above. If a portion of W. Monte Vista Drive is constructed by others and the improvements are not consistent with the approved Street Cross-Section and Supplemental Design Guidelines, Owner shall modify the street improvements as needed so all of W. Monte Vista Drive between N. 150th Drive and N. Bullard Avenue is constructed in accordance with the approved Street Cross-Section for W. Monte Vista Drive and the Supplemental Design Guidelines. Unless constructed earlier or unless otherwise agreed to in a written phasing plan approved by the City Engineer or his/her designee, W. Monte Vista Drive shall be constructed in connection with development within Land Area A and/or Land Area B. Unless the City Engineer or his/her designee modified the timing for the completion of W. Monte Vista Drive in an approved written phasing plan, no certificates of occupancy shall be issued for any structures located within Land Area A or Land Area B until W. Monte Vista Drive has been constructed and accepted by the City Engineer or his/her designee subject to completion of the two-year warranty period. W. Monte Vista shall be a public street and shall be constructed by Owner at Owner's sole cost, unless otherwise provided in a written development agreement. Notwithstanding the foregoing, if the Master TIA or an Updated TIA indicates that W. Monte Vista needs to be completed to support development in any other Land Area within the Property (Land Areas, C – F), Owner shall construct W. Monte Vista Drive in connection with such development; and
11. Unless otherwise constructed by others, Owner shall construct the full street improvements, (the northside and southside) of W. Goodyear Way between N. 150th Drive and N. Bullard Avenue. W. Goodyear Way shall be constructed in accordance with the approved Street Cross-Section as discussed above. Unless constructed earlier or unless otherwise agreed to in a written phasing plan approved by the City Engineer or his/her designee,

W. Goodyear Way shall be constructed in connection with development within Land Area B and/or Land Area C. Unless the City Engineer or his/her designee modified the timing for the completion of W. Goodyear Way in an approved written phasing plan, no certificates of occupancy shall be issued for any structures located within Land Area B or Land Area C until W. Goodyear Way has been constructed and accepted by the City Engineer or his/her designee subject to completion of the two-year warranty period. W. Goodyear Way shall be a public street and shall be constructed by Owner at Owner's sole cost, unless otherwise provided in a written development agreement. Notwithstanding the foregoing, if the Master TIA or an Updated TIA indicates that W. Goodyear Way needs to be completed to support development in any other Land Area within the Property (Land Areas, A, B, C, D, E and F), Owner shall construct W. Goodyear Way in connection with such development; and

12. Owner shall, at owner's sole cost and expense, construct a trail within an area along the southern boundary of a portion of the Property identified as Land Area F in the GSQ PAD ("Land Area F"), which is immediately north of Interstate-10 (Papago Freeway). The trail shall be constructed within a 15-foot trail easement that Owner shall convey to the City at no cost to the City. The trail easement shall be recorded prior to the approval of any site plan, final plat, or minor land division that includes any portion of Land Area F and prior to the issuance of any permits for any work within Land Area F. The trail shall be improved in accordance with the requirements of the Goodyear Parks and Recreation Master Plan; and
13. Owner shall, as determined by the City Engineer or his/her designee, either construct or pay a proportionate share of the costs of all traffic signals not currently existing ("New Traffic Signals") identified in the Master TIA or in any Updated TIA as being needed. If an updated Traffic Impact Analysis/Study reflects the need for any New Traffic Signal at any intersection adjacent to the Property, Owner shall, at no cost to the City, convey, in fee, lien free, and free of any easements or encumbrances unless specifically agreed to by the City, any additional right-of-way needed for the construction of the portion of the New Traffic Signal that will be located on the Property. If the City Engineer or his/her designee does not require Owner to construct a required New Traffic Signal, Owner shall make an in-lieu payment to the City towards the cost of the New Traffic Signal. Except as provided herein, the in-lieu payment will be 25% of the cost of a full traffic signal for each corner of the intersection adjacent to the Property if the signal requires four arms. If the full traffic signal requires only three arms and serves only the Property, Owner is responsible for 100% of the cost of the traffic signal. If the full traffic signal requires only three arms but serves two properties, Owner is responsible for 50% of the cost of the traffic signal. The

in-lieu payment shall be calculated based on the actual cost of the New Traffic Signal if it has been constructed or, if the payment is made before the New Traffic Signal has been completed, upon an engineer's estimate of the probable cost of the signal approved by the City Engineer or his/her designee. The dedication(s) and in-lieu payment(s) required herein shall be made at the earlier of the following: (i) before the issuance of any engineering permit for any of the work reflected in a site plan, Minor Land Division ("MLD"), or final plat that includes, is adjacent to, or requires connection to the intersection where the New Traffic Signal is needed; or (ii) before the recordation of any final plat or MLD that includes, is adjacent, or requires connection to the intersection where the New Traffic Signal is needed; and

14. Except as modified in the GSQ PAD, the stipulations and conditions of approval set forth herein, the approved Street Cross-Sections, the approved Supplemental Design Guidelines, and/or a development agreement approved by the Goodyear City Council, 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; and
15. 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; and
16. 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) 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; (ii) required for the construction of improvements for which Owner is responsible for making in-lieu payments; (iii) required to be dedicated pursuant to any development agreement with the City regarding the development of the Property; (iv) required for the construction of the infrastructure improvements to be constructed pursuant to the stipulations herein, and/or (v) 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 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 has otherwise been agreed upon in a written development agreement approved by the Council, the dedications required herein shall be made when requested by the City Engineer or his/her designee; and

17. Except as modified in the GSQ PAD, the stipulations and conditions of approval set forth herein, the approved Street Cross-Sections, the approved Supplemental Design Guidelines, and/or a development agreement approved by the Goodyear City Council, the development of the Property shall comply with the City of Goodyear subdivision regulations, the City of Goodyear's Engineering Design Standards and Policies, the Maricopa County Association of Governments standards for public works construction. The development of the Property shall comply with all other applicable federal, state, and local laws, ordinances, rules, regulations, standards, and policies applicable to the development of the Property; and
18. No final plat shall be recorded 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 and/or construction permit or who will be providing utility services to the Property. If easements are required from such jurisdictions or parties easements shall be in a location approved by the City Engineer or his/her designee and shall be in a form acceptable to the City Attorney or his/her designee; and
19. If the development of the Property requires modifications to existing irrigation facilities, Owner shall coordinate with and obtain all necessary approvals from private owners or irrigation districts who have an interest in the irrigation facilities being modified; and
20. 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 residential 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 noise, cheering, paddles or bats making contact with balls, bouncing balls, splashes, fireworks and other loud noises commonly associated with recreation

- centers, parks, sports complexes, entertainment venues, concert/music venues and the like; and
- d. Public roadways adjacent to the Property are subject to road closures and community events on adjacent public rights-of-way and open spaces.
 - e. The Property is within close proximity to land intended for multi-story and high-density buildings which may include a variety of office, retail, commercial, hotel, multi-family and parking uses;
 - f. The property owner/developer/lessor shall disclose that the Property is subject to community events, loud noises and 24-hour entertainment on adjacent public rights-of-way, open spaces, patios, rooftops and indoor/outdoor establishments.

All final plats and minor land divisions subdividing all or part of the Property shall include notes setting forth the foregoing requirements including the requirements that such disclosures be included within all rental agreements for the rental of any residential units within the Property; and

- 21. Signage shall be posted within all residential sales and rental 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.

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. 22-19," declared a public record by Resolution 2023-2278, 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 provided by law.

SECTION 10. 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 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