

ORDINANCE NO. 2023-1593

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 11.37 ACRES OF LAND LOCATED WEST OF THE SOUTHWEST CORNER OF ESTRELLA PARKWAY AND VAN BUREN STREET FROM FINAL PLANNED AREA DEVELOPMENT (PAD) WITH UNDERLYING C-2 (GENERAL COMMERCIAL) ZONING TO FINAL PAD WITH UNDERLYING MF-24 (MULTI-FAMILY) ZONING; 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 11.37 acres generally located west of the southwest corner of Estrella Parkway and Van Buren Street, as more particularly described in that certain document titled "Legal Description – LCG at Estrella Parkway", which document was declared a public record by Resolution No. 2023-2349, and which is referred to and made a part hereof as if fully set forth in this Ordinance (the "Property"); and

WHEREAS, the Property is currently zoned Final Planned Area Development with underlying C-2 (General Commercial) zoning pursuant to Ordinance 16-1326 in which the Goodyear City Council on January 11, 2016, conditionally approved the rezoning of 102 acres of property at the southwest corner of Estrella Parkway and Van Buren Street from the AU (Agricultural Urban) Zoning District to Final PAD (Planned Area Development) Zoning District for the purpose of establishing the Hudson Commons Planned Area Development (PAD); and

WHEREAS, the owner of the Property, LG Estrella LLC (the "Owner") has submitted a request to amend the Hudson Commons PAD to change the underlying C-2 (General Commercial) zoning on the Property to underlying MF-24 (Multi-Family) zoning to facilitate development of a 3 & 4-story (50 feet high) 284-unit apartment complex at a density of 25 dwelling units per acre by Leon Capital Group; and

WHEREAS, the General Plan Land Use Plan designates the Property as Business & Commerce, which provides areas for the growth and development of Goodyear's economic base, and also provides for high density residential development that supports the areas; and

WHEREAS, this rezoning request is consistent with the designation of the Property in the General Plan as Business & Commerce; and

WHEREAS, a rezoning request requires review by the Planning and Zoning Commission and final decision by the City Council through the public hearing process, and to be approved, a rezoning request must be found in conformance with the General Plan and to not adversely impact the surrounding area as outlined in the Zoning Ordinance; and

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 September 13, 2023, appeared in the Arizona Republic Southwest Valley edition on August 25, 2023; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on September 13, 2023, to consider the rezoning of the Property, and a motion to approve failed by a vote of 1 to 4; and

WHEREAS, the Commission By-laws state that when a motion in favor fails to receive an affirmative majority vote, and no subsequent motion is made, the prior failed motion is entered into the record as a recommendation to deny the proposed rezoning; and

WHEREAS, public notice that this rezoning request is to be considered and reviewed at a public hearing held before the City Council on September 25, 2023, appeared in the Arizona Republic Southwest Valley edition on August 25, 2023; 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. 2023-1593 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located west of the southwest corner of Estrella Parkway and Van Buren Street, as more particularly described in that certain document titled “Legal Description – LCG at Estrella Parkway”, which document was declared a public record by Resolution No. 2023-2349, and which is referred to and made a part hereof as if fully set forth in this Ordinance (the “Property”).

SECTION 2. REZONING

The Property is conditionally rezoned from Final Planned Area Development (PAD) with underlying C-2 (General Commercial) zoning to Final PAD with underlying MF-24 (Multi-Family) zoning designation subject to the following stipulations.

SECTION 3. STIPULATIONS

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

1. Except as modified by the stipulations and conditions set forth herein, the Property shall be developed in accordance with all requirements applicable to development within the MF-24 (multi-family) residential zoning district as modified by the the Hudson Commons Final Planned Area Development dated November 15, 2015 adopted by Ordinance 2016-1326 (the “2015 Hudson Commons PAD”) and further modified by the stipulations/conditions of approval included in Ordinance 2016-1326; and
2. The perimeter building set-back along the Western Boundary of the Property for MF-24 (unsudivided) is changed from 30 feet for one-story buildings, 50 feet for two story buildings and 75 feet for three story buildings to: 50 feet + an additional 5 feet for every foot of building height over 30 feet; and

3. If the Property is developed as MF-24 (unsubdivided), the maximum height of one building located along the frontage of Van Buren Street shall be 50 feet (50'); and
4. Encroachments into the maximum building height for both MF-24 (unsubdivided) and MF-24 (subdivided) are permitted up to 5 feet for: parapets; mechanical screening; architectural features, details, and embellishments; variations in roof shapes, materials, forms; and mechanical equipment; and
5. The Recreation Open Space Areas plan submitted with the application for rezoning is not approved. A revised Recreation Open Space Areas plan that complies with the requirements in the City of Goodyear Zoning Ordinance, as it may be amended from time to time, and as modified by the 2015 Hudson Commons PAD, and as further modified, shall be submitted with the first site plan submitted for the development of the Property and must be approved by the Zoning Administrator, or his/her designee; and
6. If the Property is developed as MF-24 (unsubdivided), the maximum density for development within the Property may be increased from 24 du/ac to 25 du/ac if the Property is developed with recreational open space amenities in excess of the minimum requirements set forth in the 2015 Hudson Commons PAD subject to the written approval of the Zoning Administrator or his/her designee; and
7. The development of the Property shall comply with the City of Goodyear Design Guidelines Manual dated June 9, 2014 as it may be amended with the following:
 - a. Elevations of buildings facing public right-of-way shall consist of no less than three major exterior materials (such as stucco, cementitious siding, paneling, stone, stone veneer, etc). No single material on an elevation facing the public right-of-way shall exceed 50% of the area; and
 - b. All building elevations shall have no less than 3 major colors (including material colors) and one accent color. At least one accent color shall represent colors of the desert. Major colors shall avoid grey tones and provide enough contrast to avoid a monolith appearance; and
 - c. Building elevations shall include awnings or other shade structures over balconies and patios; and
 - d. Buildings facing public right-of-way shall have horizontal movement of at least 24" every 100 linear feet in order to provide shadow lines and elevation interest; and
 - e. The architectural theme for all buildings shall have a modern aesthetic with clean lines and avoid a side-by-side stacked unit appearance. To assist in reducing the stacked appearance, the first level of the elevations facing the public right-of-way shall

- consist of no less than 40% of a stone, block, or masonry veneer (stone, brick, or block) to create a base foundation to the elevation; and
- f. The rooflines of all buildings shall have vertical movement with the use of different parapet heights, equipment screening heights, but be consistent with the modern aesthetic architecture; and
8. The perimeter landscape setback around the perimeter of the Property if developed as MF-24 (unsubdivided) is 15 feet except for along the western boundary of the Property, which is reduced to 12 feet; and
9. If the Owner fails to comply with any of the stipulations or fails to comply with any other City codes and regulations in the development of the Property, then the Zoning Administrator, or his/her designee, may suspend issuance of building or construction permits for work within the Property until the Owner cures the item in default; and
10. Approval of the rezoning does not constitute approval of any site plan for development within the Property. 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, recreational open space, grading and drainage, lighting, infrastructure, parking, access, and circulation; and
11. Except as modified by the 2015 Hudson Commons PAD and the stipulations and conditions set forth in Ordinance 2016-1226, and the stipulations and conditions set forth in this Ordinance 2023-1593, the development shall comply with all applicable provisions in the Goodyear Zoning Ordinance as it may be amended from time to time, including, but not limited to the following:
- a. The Property shall be developed to provide a minimum of 20% of the net site in landscaping, and 50% of the required landscape area shall be covered with live vegetation; and
 - b. The trees installed within the landscape buffers along the perimeter of the Property shall be 30 feet on center, and there shall be an appropriate number of shrubs, groundcover and other plant material to achieve 50% live coverage; and
 - c. At least one (1) parking space per multi-family dwelling unit must be covered and must be assigned to a dwelling unit; and
 - d. If Owner constructs a wall along the western boundary of the Property there shall be a minimum separation of 20 feet between any fence and/or wall on the Property and the existing masonry wall along the eastern boundary of the Hudson Commons single family parcel; and

12. All turf areas within the Property shall be artificial turf, where safe for residents and pets; and
13. The masonry component of any partial view fencing located within any setback shall not exceed two (2) feet; and
14. Lighting fixtures installed within parking canopies shall not be visible from adjacent properties. Lighting fixtures within parking canopies adjacent to a single family zoning district or public street shall utilize full cutoff fixtures; and
15. Development of the Property shall comply with the provisions set forth in Article 6 (Off-Street Parking and Loading) of the Goodyear Zoning Ordinance, as it may be amended, applicable to multi-family residential developments, including, but not limited to, section 6-4 (Parking Requirements), unless a Parking Study prepared by a qualified professional allowing for a reduced number of parking spaces is submitted and approved in writing by the Zoning Administrator or his/her designee upon a determination that the reduced number of parking spaces are sufficient to meet the parking needs of the residents and their guests, which determination shall be based on objective quantifiable data demonstrating the reasons why fewer parking spaces than the number of spaces required in section 6-4 of the Goodyear Zoning Ordinance are sufficient; and
16. 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 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, all dedications shall be made prior to or concurrent with recordation of a final plat or the issuance of any permit for work within the Property whichever is earlier; and

17. 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
18. No permits for work within the Property shall be issued unless there is uncommitted capacity available at the city's 157th Avenue Water Reclamation Facility to accept wastewater flows from development within the Property as determined by the Director of the City of Goodyear's Utilities Department pursuant to the requirements and directives of the State of Arizona and Maricopa County or until Owner of the Property has executed a waiver, to be recorded against the Property, that no water meters will be issued for service to the Property until there is uncommitted capacity available at the city's 157th Avenue Water Reclamation Facility to accept wastewater flows from development within the Property as determined by the Director of the City of Goodyear's Utilities Department pursuant to the requirements and directives of the State of Arizona and Maricopa County
19. The Traffic Impact Analysis submitted with the application for rezoning is not approved. An updated Traffic Impact Analysis 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.

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 "Official Supplementary Zoning Map No. 23-24", declared a public record by Resolution No. 2023-2340 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