City Council Regular Meeting
City Hall - Council Chambers
1900 N. Civic Square
Goodyear, AZ 85395
Monday, September 25, 2023
5:00 PM

Mayor
Joe Pizzillo

Vice Mayor
Laura Kaino

Councilmember
Sheri Lauritano

Councilmember
Wally Campbell

Councilmember
Bill Stipp

Councilmember
Brannon Hampton

Councilmember
Vicki Gillis

CITIZEN COMMENTS/APPEARANCES FROM THE FLOOR
Please complete a speaker card and submit it to the City Clerk prior to the meeting being convened, if possible. Each speaker is limited to three (3) minutes. Once the City Clerk has called your name, step up to the lectern and begin by clearly stating your name for the record and whether you are a Goodyear resident.

NON-AGENDA ITEMS
Members of the public may address the City Council regarding any non-agenda item within the jurisdiction of the City Council. The City Council will listen to comments and may take any of the following actions:

- Respond to criticism.
- Request that staff investigate and report on the matter.
- Request that the matter be scheduled on a future agenda.

AGENDA ITEMS
Members of the public may address the City Council regarding any item on the Consent, Public Hearing and/or Business portions of the agenda. Each speaker's name will be called in turn once the item has been reached and after City staff have completed their presentation.

PROCEDURES
Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Goodyear City Council and to the general public that the Council of the city of Goodyear will hold a meeting open to the public. Public body members of the city of Goodyear will attend either in person or by telephone conference call and/or video communication. The Goodyear City Council may vote to go into Executive Session, pursuant to A.R.S. § 38-431.03(A)(3), which will not be open to the public, to discuss certain matters. Meetings are conducted in accordance with the City Council Meetings Council Rules of Procedure adopted by Resolution No.2018-1879.





City Clerk's Office: 1900 N. Civic Square, Goodyear, AZ 85395 (623) 882-7830
www.goodyearaz.gov/cityclerk
City Council Meeting Live Broadcast: https://www.facebook.com/goodyearazgov/videos

Monday, September 25, 2023 5:00 p.m. Meeting Agenda

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE AND INVOCATION BY COUNCILMEMBER LAURITANO

CITIZEN COMMENTS/APPEARANCES FROM THE FLOOR

CONSENT

1. **APPROVAL OF MINUTES**

RECOMMENDATION

Approve the September 8, 2023 Special Meeting draft minutes and September 11, 2023 Regular Meeting draft minutes. (Darcie McCracken, City Clerk)

2. **MAP OF DEDICATION FOR COMPASS DATACENTERS YUMA ROAD**

RECOMMENDATION

Approve the Map of Dedication for Yuma Road, subject to stipulations. (Marty Crossland, Interim Deputy Director of Development Engineering)

3. **AMEND CHAPTER 12 (SEWERS) OF THE GOODYEAR CITY CODE**

RECOMMENDATION

1. ADOPT RESOLUTION NO. 2023-2337 DECLARING A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND TITLED “AMENDING CHAPTER 12 (SEWERS) OF THE GOODYEAR CITY CODE.”

2. ADOPT ORDINANCE NO. 2023-1583 AMENDING CHAPTER 12 (SEWERS) OF THE GOODYEAR CITY CODE TO AMEND AND REPLACE CHAPTER 12 IN ITS ENTIRETY; PROVIDING FOR CORRECTIONS; SEVERABILITY; PENALTIES AND AN EFFECTIVE DATE. (Todd Carpenter, Deputy Water Services Director and Barbara Chappell, Water Services Director)

4. **AMEND CHAPTER 12A (SEWER PRETREATMENT) OF THE GOODYEAR CITY CODE**

RECOMMENDATION

1. ADOPT RESOLUTION NO. 2023-2338 DECLARING A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND TITLED “AMENDING CHAPTER 12A (SEWER PRETREATMENT) OF THE GOODYEAR CITY CODE.”

2. ADOPT ORDINANCE NO. 2023-1584 AMENDING CHAPTER 12A (SEWER PRETREATMENT) OF THE GOODYEAR CITY CODE TO AMEND AND REPLACE IN ITS ENTIRETY; PROVIDING FOR CORRECTIONS; SEVERABILITY; PENALTIES AND AN EFFECTIVE DATE. (Todd Carpenter, Deputy Water Services Director and Barbara Chappell, Water Services Director)

5. **AMEND ARTICLE 14-11 (BACKFLOW CONTROL AND CROSS-CONNECTION PROGRAM) OF THE GOODYEAR CITY CODE**

RECOMMENDATION

1. ADOPT RESOLUTION NO. 2023-2335 DECLARING AS PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND TITLED “AMENDING ARTICLE 14-11 (BACKFLOW CONTROL AND CROSS-CONNECTION PROGRAM) OF THE GOODYEAR CITY CODE.”

2. ADOPT ORDINANCE NO. 2023-1582 AMENDING ARTICLE 14-11 (BACKFLOW CONTROL AND CROSS-CONNECTION PROGRAM) OF THE GOODYEAR CITY CODE; PROVIDING FOR CORRECTIONS, SEVERABILITY, PENALTIES, AND AN EFFECTIVE DATE. (Todd Carpenter, Deputy Water Services Director and Barbara Chappell, Water Services Director)

6. **AUTHORIZATION OF EXPENDITURE OF CONSTRUCTION AND FURNITURE, FIXTURES, AND EQUIPMENT (FF&E) FUNDS FOR APPROVED CIP PROJECT #60105 – GOODYEAR MUNICIPAL COMPLEX TENANT IMPROVEMENTS**

RECOMMENDATION

Consider authorization for the expenditure of construction and furniture, fixtures, & equipment (FF&E) funds up to $3,690,000 for Tenant and Site Improvements for Building D of Goodyear Municipal Complex (GMC) for Capital Improvement Program (CIP) Project #60105 - Goodyear Municipal Complex Tenant Improvements. (Tony Mena, Deputy Public Works Director and Allan Smolko, Senior Project Manager)

7. **WATER INFRASTRUCTURE AND FINANCE AUTHORITY (WIFA) GRANT APPLICATION TO DEPLOY SMART HOME WATER DEVICES FOR 500 WATER CUSTOMERS**

RECOMMENDATION

ADOPT RESOLUTION NO. 2023-2350 AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR WATER INFRASTRUCTURE AND FINANCE AUTHORITY (WIFA) CONSERVATION FUNDS TO GOODYEAR WATER SERVICES, AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATING TO SAID APPLICATIONS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AGREEMENT (IF GRANT FUNDS ARE AWARDED), AND AUTHORIZING THE CITY MANAGER TO APPROVE THE REQUIRED BUDGET TRANSFER (IF GRANT FUNDS ARE AWARDED). (Andrew Pirrone, Water Conservation Coordinator)

8. **RURAL AND TRIBAL ASSISTANCE PILOT PROGRAM GRANT AND RESOLUTION**

RECOMMENDATION

ADOPT RESOLUTION NO. 2023-2351 RATIFYING THE CONDITIONAL APPROVAL AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR FY 2023-2024 RURAL AND TRIBAL ASSISTANCE PILOT PROGRAM FUNDS TO THE UNITED STATES DEPARTMENT OF TRANSPORTATION (USDOT), AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATING TO SAID APPLICATION, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AGREEMENT (IF GRANT FUNDS ARE AWARDED), AND AUTHORIZING THE CITY MANAGER TO APPROVE THE REQUIRED BUDGET TRANSFER (IF GRANT FUNDS ARE AWARDED). (Chris Bridges, Deputy Director of Engineering)

9. **DEVELOPMENT AGREEMENT FOR AIRPORT GATEWAY SOUTH**

RECOMMENDATION

ADOPT RESOLUTION NO. 2023-2354 APPROVING THE FORM OF A DEVELOPMENT AGREEMENT FOR AIRPORT GATEWAY SOUTH, CONDITIONALLY AUTHORIZING ITS EXECUTION, PROVIDING DIRECTION AND AUTHORIZATION, PROVIDING FOR THE TERMINATION OF THE APPROVALS AND AUTHORIZATIONS PROVIDED IN THE RESOLUTION; AND PROVIDING AN EFFECTIVE DATE. (Andy Granger, Deputy City Manager)

PUBLIC HEARINGS

The following actions will take place for each public hearing item:

A. Open the Public Hearing
B. Staff Presentation
C. Applicant Presentation (if applicable)
D. Receive Public Comment
E. Close the Public Hearing

10. **REZONE WEST OF THE SOUTHWEST CORNER OF ESTRELLA PARKWAY AND VAN BUREN STREET TO FINAL PAD WITH UNDERLYING MF-24 (MULTI-FAMILY) ZONING**

RECOMMENDATION

PLANNING AND ZONING COMMISSION RECOMMENDATION:

1. DENY THE REQUEST TO REZONE THE PROPERTY FROM FINAL PLANNED AREA DEVELOPMENT (PAD) WITH UNDERLYING C-2 (GENERAL COMMERCIAL) ZONING TO FINAL PAD WITH UNDERLYING MF-24 (MULTI-FAMILY) ZONING; OR

ALTERNATIVE ACTION TO APPROVE:

2. ADOPT RESOLUTION NO. 2023-2349 DECLARING AS PUBLIC RECORDS

THOSE CERTAIN DOCUMENTS INCORPORATED BY REFERENCE IN ORDINANCE 2023-1593 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; and

3. ADOPT ORDINANCE NO. 2023-1593 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. (Karen Craver, Principal Planner)

11. **AMENDMENT TO THE ZONING ORDINANCE TO ESTABLISH A NEW BUSINESS PARK ZONING DISTRICT**

RECOMMENDATION

1. ADOPT RESOLUTION NO. 2023-2345 DECLARING AS PUBLIC RECORD THAT CERTAIN DOCUMENT REFERRED TO AND INCORPORATED IN ORDINANCE NO. 2023-1592 FILED WITH THE CITY CLERK AMENDING PROVISIONS IN ARTICLE 3-3 (COMMERCIAL DISTRICTS) OF THE GOODYEAR ZONING ORDINANCE TO ADD A NEW BUSINESS PARK DISTRICT (BPD).

2. ADOPT ORDINANCE NO. 2023-1592 AMENDING CITY OF GOODYEAR ZONING ORDINANCE ARTICLE 3-3 (COMMERCIAL DISTRICTS) TO ESTABLISH A NEW BUSINESS PARK ZONING DISTRICT (BPD); 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. (Steve Careccia, Planning Manager)

12. **AMENDMENT TO ZONING ORDINANCE AND SUBDIVISION REGULATIONS RELATED TO FREEWAY SOUND ATTENUATION**

RECOMMENDATION

1. ADOPT RESOLUTION NO. 2023-2341 DECLARING AS PUBLIC RECORDS THOSE CERTAIN DOCUMENTS REFERRED TO AND INCORPORATED IN ORDINANCE 2023-1589 FILED WITH THE CITY CLERK AMENDING PROVISIONS IN THE GOODYEAR ZONING ORDINANCE AND THE SUBDIVISION REGULATIONS IN THE GOODYEAR CITY CODE RELATED TO NOISE ATTENUATION REQUIREMENTS NEAR FREEWAYS.

2. ADOPT ORDINANCE NO. 2023-1589 AMENDING CITY OF GOODYEAR ZONING ORDINANCE ARTICLE 2 (DEFINITIONS) AND ARTICLE 9-1 (FREEWAY DEVELOPMENT OVERLAY DISTRICT) AND CITY OF GOODYEAR CODE OF

ORDINANCES CHAPTER 15 (SUBDIVISION REGULATIONS) TO ADD DEFINITIONS AND CHANGE THE EXTERIOR SOUND ATTENUATION REQUIREMENT FOR DWELLING UNITS AND NOISE SENSITIVE USES TO SIXTY-SEVEN (67) DECIBELS; 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. (Steve Careccia, Planning Manager)

13. **USE PERMIT FOR A CONVENIENCE STORE AND FUEL STATION 23-300-00002 (LAKIN PARK CONVENIENCE STORE)**

RECOMMENDATION

Approve a Use Permit for a Convenience Use (Convenience Store with gas station) on an approximately 5.22 acre parcel located at the Southwest Corner of MC-85 and S. Cotton Lane (the “Property”). (David Williams, Contract Senior Planner)

14. **REZONE APPROXIMATELY 47.35 ACRES FROM PRELIMINARY PLANNED AREA DEVELOPMENT (PAD) TO I-1 (LIGHT INDUSTRIAL) WITH PAD OVERLAY**

RECOMMENDATION

1. ADOPT RESOLUTION NO. 2023-2329, DECLARING AS PUBLIC RECORDS THOSE CERTAIN DOCUMENTS FILED WITH THE CITY CLERK AND INCORPORATED BY REFERENCE IN ORDINANCE NO. 2023-1577 FILED WITH THE CITY CLERK RELATED TO THE REZONING CASE FOR – SEC SARIVAL AND MC-85.

2. ADOPT ORDINANCE NO. 2023-1577, CONDITIONALLY REZONING APPROXIMATELY 47.35 ACRES OF PROPERTY LOCATED AT THE SOUTHEAST CORNER OF SARIVAL AVENUE AND MARICOPA COUNTY HIGHWAY 85 TO BE KNOWN AS SEC SARIVAL AND MC-85; 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. (Christian M. Williams, AICP, Principal Planner).

15. **REZONE APPROXIMATELY 47.09 ACRES FROM C-2 GENERAL COMMERCIAL AND AG- AGRICULTURE TO I-1 (LIGHT INDUSTRIAL) WITH PAD OVERLAY**

RECOMMENDATION

1. ADOPT RESOLUTION NO. 2023-2331, DECLARING AS PUBLIC RECORDS THOSE CERTAIN DOCUMENTS REFERRED TO AND INCORPORATED BY REFERENCE IN ORDINANCE NO. 2023-1578 FILED WITH THE CITY CLERK RELATED TO THE REZONING CASE FOR – SEC CITRUS AND MCDOWELL.

2. ADOPT ORDINANCE NO. 2023-1578, CONDITIONALLY REZONING APPROXIMATELY 47.09 ACRES OF PROPERTY LOCATED AT THE SOUTHEAST CORNER OF CITRUS ROAD AND MCDOWELL ROAD FROM C-2 (GENERAL COMMERCIAL) AND AGRICULTURAL (AG) TO THE PLANNED AREA DEVELOPMENT (PAD) ZONING DISTRICT WITH AN UNDERLYING ZONING DISTRICT OF I-1 (LIGHT INDUSTRIAL) WITH PLANNED AREA DEVELOPMENT

(PAD) OVERLAY; 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.

ALTERNATIVE ACTION TO APPROVE WITH MODIFICATION TO STIPULATIONS:

1. ADOPT RESOLUTION NO. 2023-2331, DECLARING AS PUBLIC RECORDS THOSE CERTAIN DOCUMENTS REFERRED TO AND INCORPORATED BY REFERENCE IN ORDINANCE NO. 2023-1578 FILED WITH THE CITY CLERK RELATED TO THE REZONING CASE FOR – SEC CITRUS AND MCDOWELL.

2. ADOPT ORDINANCE NO. 2023-1578, CONDITIONALLY REZONING APPROXIMATELY 47.09 ACRES OF PROPERTY LOCATED AT THE SOUTHEAST CORNER OF CITRUS ROAD AND MCDOWELL ROAD FROM C-2 (GENERAL COMMERCIAL) AND AGRICULTURAL (AG) TO THE PLANNED AREA DEVELOPMENT (PAD) ZONING DISTRICT WITH AN UNDERLYING ZONING DISTRICT OF I-1 (LIGHT INDUSTRIAL) WITH PLANNED AREA DEVELOPMENT (PAD) OVERLAY; 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 SUBJECT TO THE FOLLOWING AMENDMENTS:

STIPULATIONS AS FOLLOWS:

a. Stipulation 3 is amended to read:
"Prior to the issuance of any permit, excluding mass grading, Owner shall provide the city with either (1) evidence that the Arizona Corporation Commission has approved the contiguous extension of EPCOR's Certificate of Convenience and Necessity (CC&N) to provide water services within the applicable area of the Property or (2) that EPCOR has obtained a Commission-approved Certificate of Convenience and Necessity (CC&N) authorizing EPCOR to provide water services within the applicable area of the Property"; and
b. Stipulation 14 is amended to read:
"Owner shall construct, at Owner's sole cost and expense, all on-site and off-site infrastructure improvements determined by the City as being necessary to provide wastewater service to the Property, including the improvements identified in the sewer report as required by the EDSPM and the City during review of the Site Plan/ and or construction plans". (Christian M. Williams, AICP, Principal Planner)

INFORMATION ITEMS

Comments, commendations, report on current events and presentations by Mayor, Councilmembers, staff or members of the public. The Council may not propose, discuss, deliberate or take any legal action on the information presented, pursuant to A.R.S. § 38-431.02.

- Reports from the Mayor and City Council
  This may include current events and activities as well as requests for information or

future agenda items.

- Report from the City Manager
  This may include updates from events, staff summary, update of legislative issues, clarification on items being requested by City Council and Manager's update on Council Related Matters.

FUTURE MEETINGS

Future meetings are tentatively scheduled as follows:

October 16, 2023	Council Meeting	5:00 p.m.

ADJOURNMENT

THE CITY OF GOODYEAR ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. With 48-hour advance notice, special assistance can be provided for sight and/or hearing-impaired persons at this meeting. Reasonable accommodations will be made upon request for persons with disabilities or non-English speaking residents. Please call the City Clerk (623) 882-7830 or Arizona Relay (TDD) 7-1-1 to request an accommodation to participate in this public meeting.

For Non-English assistance please contact the City Clerk at (623) 882-7830.

Si necesita asistencia o traducción en español, favor de llamar al menos 48 horas antes de la reunión al (623) 882-7830.

POSTING VERIFICATION
This agenda was posted on 9/20/2023 at 4:50 p.m. by PP.

ITEM #: 1.
DATE: 09/25/2023
AI #:1176

APPROVAL OF MINUTES

SUBJECT

APPROVAL OF MINUTES

RECOMMENDATION

Approve the September 8, 2023 Special Meeting draft minutes and September 11, 2023 Regular Meeting draft minutes. (Darcie McCracken, City Clerk)

Attachments

September 11, 2023 Draft Regular Meeting Minutes

September 11, 2023 Draft Work Session Minutes

City Council Regular Meeting
City Hall - Council Chambers
1900 N. Civic Square
Goodyear, AZ 85395

Monday, September 11, 2023	Immediately Following the Work Session	Meeting Minutes

CALL TO ORDER

Mayor Pizzillo called the Regular Meeting to order at 6:13 p.m.

ROLL CALL

Present: **Mayor Joe Pizzillo**; **Vice Mayor Laura Kaino**; **Councilmember Sheri Lauritano**; **Councilmember Wally Campbell**; **Councilmember Bill Stipp**; **Councilmember Brannon Hampton**; **Councilmember Vicki Gillis**

Staff Present: City Manager Wynette Reed; City Attorney Roric Massey; City Clerk Darcie McCracken

PRESENTATION OF THE COLORS

In commemoration of the tragedy on September 11, 2001, the Goodyear Fire Department Color Guard gave a Presentation of Colors, and Sunkissed, a trio associated with the Solid Rock Teen Center, performed the National Anthem.

PLEDGE OF ALLEGIANCE AND INVOCATION BY COUNCILMEMBER GILLIS

COMMUNICATIONS

1. **APPRECIATION OF OFFICER MARCUS PATTERSON FOR HIS WORK AS THE GOODYEAR POLICE OFFICERS ASSOCIATION PRESIDENT**

Police Chief Santiago Rodriguez recognized Officer Marcus Patterson for seven years of service as president of the Goodyear Police Officer Association.

CITIZEN COMMENTS/APPEARANCES FROM THE FLOOR

Jennifer Barber, a Goodyear resident, requested the removal of consent agenda item number six, Development Agreement for King Ranch, and item number seven, Lease agreement for Solid Rock Teen Center Goodyear LLC, to allow for additional public discussion.

The comments were specific to items on the agenda; Council's response is included

under consent in the minutes.

CONSENT

Council and the City Attorney provided additional details to consent agenda item number six, the Development Agreement for King Ranch, stating that the agreement is for reimbursement for a portion of the Cotton Lane Bridge, and any future development agreements will come before the community and Council for discussion.

Jeff Moore, Executive Director of Solid Rock Teen Center, offered details for consent agenda item number seven, stating the corporation was founded by Alice Cooper and his wife for teen outreach, providing after-school and summer programs focused on the arts.

Council thanked Solid Rock for choosing Goodyear and complemented the corporation for the programs offered.

MOTION BY Councilmember Brannon Hampton, **SECONDED BY Councilmember Bill Stipp to APPROVE Consent Agenda items 2 through 7. The motion carried as follows:**

AYE: **Mayor Joe Pizzillo**, **Vice Mayor Laura Kaino**, **Councilmember Sheri Lauritano**, **Councilmember Wally Campbell**, **Councilmember Bill Stipp**, **Councilmember Brannon Hampton**, **Councilmember Vicki Gillis**

Passed - Unanimously

2. **APPROVAL OF MINUTES**
Approve the draft minutes from a Regular Meeting held on August 28, 2023. (Darcie McCracken, City Clerk)

3. **INTERGOVERNMENTAL AGREEMENT (IGA) WITH CITY OF AVONDALE HUMAN TRAFFICKING TASK FORCE**

RECOMMENDATION
Authorize the City Manager or designee to execute the Intergovernmental Agreement (IGA) with City of Avondale's West Valley Human Trafficking Task Force. (Police Chief Santiago Rodriguez)

4. **FINAL PLAT OF ABEL RANCH - PHASE 2**

RECOMMENDATION
Conditionally approve the Final Plat of Abel Ranch - Phase 2, subdividing approximately 69 acres into 175 lots and 14 tracts, subject to stipulations. (Marty Crossland, Deputy Director of Engineering Development)

5. **APPROVAL OF TWO PARTIAL TERMINATIONS AND RELEASES OF EXISTING EASEMENT**

RECOMMENDATION
1. Approve the form of the Partial Termination and Release of Drainage Easements and authorize the City Manager to execute the release and the City Clerk to record the release upon the City's receipt of a new drainage easement for the replacement drainage facilities that are to be installed, APN: 501-02-370.

2. Approve the form of the Partial Termination and Release of Vehicle Non-Access Easement and authorize the City Manager to execute the release and the City Clerk to record the release upon the City's receipt of a new vehicular non-access easement, APN: 501-02-467. (Kevin Spicer, Real Estate Services Specialist)

6. **DEVELOPMENT AGREEMENT FOR KING RANCH**

RECOMMENDATION
ADOPT RESOLUTION NO. 2023-2346 APPROVING THE FORM OF A DEVELOPMENT AGREEMENT FOR KING RANCH, CONDITIONALLY AUTHORIZING ITS EXECUTION, PROVIDING DIRECTION AND AUTHORIZATION, PROVIDING FOR THE TERMINATION OF THE APPROVALS AND AUTHORIZATIONS PROVIDED IN THE RESOLUTION; AND PROVIDING AN EFFECTIVE DATE. (Roric Massey, City Attorney)

7. **LEASE AGREEMENT FOR SOLID ROCK TEEN CENTER GOODYEAR LLC**

RECOMMENDATION
ADOPT RESOLUTION NO. 2023-2352 APPROVING THE FORM OF A LEASE FOR THE LEASE OF CITY PROPERTY; CONDITIONALLY AUTHORIZING ITS EXECUTION, PROVIDING DIRECTION AND AUTHORIZATION, PROVIDING FOR THE TERMINATION OF THE APPROVALS AND AUTHORIZATIONS PROVIDED IN THE RESOLUTION; AND PROVIDING AN EFFECTIVE DATE. (Roric Massey, City Attorney)

PUBLIC HEARINGS

8. **LAND USE ASSUMPTIONS AND INFRASTRUCTURE IMPROVEMENT PLAN**

Mayor Pizzillo opened the public hearing at 6:49 p.m.

Deputy Finance Director Jared Askelson introduced the Land Use Assumptions (LUA) and Infrastructure Improvement Plan (IIP), two of four components related to updating development impact fees. He briefly described the state regulations, including the statutory requirement to update the two reports every two to five years, and explained how data from surrounding city single-family residential permit fees and Goodyear growth forecasts for the next ten years are used to update the two reports.

Mr. Askelson continued, providing details on how permit fees are calculated, the percentage increase anticipated with the development impact fee update, and the public involvement process.

Mayor Pizzillo closed the public hearing at 7:06 p.m.

Council thanked staff for the presentation, stakeholder meetings, and the public-private

involvement throughout the process, and requested to see the comparison costs from the neighboring communities.

BUSINESS

9. **GENERAL PLAN 2035 UPDATE**

Planning Manager Steve Careccia introduced General Plan Consultant Matt Klyszeiko with Michael Baker International to present the General Plan 2035 progress update.

Mr. Klyszeiko provided information on the project's progress; the General Plan 60-day review draft, and responses from the community, bringing the update to the last phase before placing the plan on a ballot for an upcoming election. He continued his presentation by spotlighting important areas identified during the community meetings and the alignment with other recommended plan updates such as the Transportation Master Plan and the Parks and Recreation Master Plan.

Council commended the outreach to the communities and stated they believe the plan is a good representation of Goodyear.

MOTION BY Councilmember Wally Campbell, **SECONDED BY Vice Mayor Laura Kaino to AUTHORIZE staff to continue finalizing the draft General Plan 2035. Motion carried as follows:**

AYE: **Mayor Joe Pizzillo**, **Vice Mayor Laura Kaino**, **Councilmember Sheri Lauritano**, **Councilmember Wally Campbell**, **Councilmember Bill Stipp**, **Councilmember Brannon Hampton**, **Councilmember Vicki Gillis**

Passed - Unanimously

10. **AMERICAN HEART ASSOCIATION WEST VALLEY HEART WALK**

American Heart Association Senior Development Director Krista Calcagno provided a brief history of the American Heart Association, the outreach provided to educate people on heart health, and the proposed plan for the Inaugural West Valley American Heart Association /Heart Walk, scheduled for Goodyear Civic Square December 2, 2023, at 9:00 a.m.

Arts and Culture Administrator Guylene Ozlanski summarized the in-kind support request of $10,900, which included staffing, water, and equipment.

Council expressed support for the event.

MOTION BY Councilmember Bill Stipp, **SECONDED BY Councilmember Sheri Lauritano to Approve in-kind Fire and Police public safety services, Parks and Recreation staffing, and watering of dirt lots for the American Heart Association West Valley Heart Walk on December 2, 2023. The motion carried as follows:**

AYE: **Mayor Joe Pizzillo**, **Vice Mayor Laura Kaino**, **Councilmember Sheri Lauritano**, **Councilmember Wally Campbell**, **Councilmember Bill Stipp**, **Councilmember Brannon Hampton**, **Councilmember Vicki Gillis**

Passed - Unanimously

INFORMATION ITEMS

There were no information items.

FUTURE MEETINGS

Future meetings are tentatively scheduled as follows:

September 18, 2023	Council Meeting	5:00 p.m.

EXECUTIVE SESSION

A VOTE MAY BE HELD TO CALL AN EXECUTIVE SESSION FOR THE FOLLOWING:

11. Pursuant to A.R.S. §38-431.03(A) (3) (4): Discussion and consultation with the City Attorney for legal advice and to consider its position and instruct its attorneys regarding the City's position regarding contracts that are the subject of negotiations related to ambulance service agreements with Maricopa Ambulance.

MOTION BY Vice Mayor Laura Kaino, **SECONDED BY Councilmember Brannon Hampton to CONVENE an Executive Session. The motion carried as follows:**

AYE: **Mayor Joe Pizzillo**, **Vice Mayor Laura Kaino**, **Councilmember Sheri Lauritano**, **Councilmember Wally Campbell**, **Councilmember Bill Stipp**, **Councilmember Brannon Hampton**, **Councilmember Vicki Gillis**

Passed - Unanimously

Council moved into Executive Session at 8:00 p.m.

ADJOURNMENT OF EXECUTIVE SESSION

Mayor Pizzillo adjourned the Executive Session at 8:15 p.m.

RECONVENE REGULAR MEETING

Mayor Pizzillo reconvened the Regular Meeting at 8:15 p.m.

ADJOURNMENT

There being no further business to discuss, Mayor Pizzillo adjourned the Regular Meeting at 8:15 p.m.

_____ _____

Darcie McCracken, City Clerk Joe Pizzillo, Mayor

Date:_____

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the CITY COUNCIL REGULAR MEETING of the city of Goodyear, Arizona, held on September 11, 2023. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____, 2023. SEAL:

_____

Darcie McCracken, City Clerk

City Council Work Session
City Hall - Canyon Trails Conference Rooms 1 and 2
1900 N. Civic Square
Goodyear, AZ 85395

Monday, September 11, 2023	5:00 p.m.	Meeting Minutes

CALL TO ORDER

Mayor Pizzillo called the Work Session to order at 5:00 p.m.

ROLL CALL

Present: **Mayor Joe Pizzillo**; **Vice Mayor Laura Kaino**; **Councilmember Sheri Lauritano**; **Councilmember Wally Campbell**; **Councilmember Bill Stipp**; **Councilmember Brannon Hampton**; **Councilmember Vicki Gillis**

Staff Present: City Manager Wynette Reed; City Attorney Roric Massey; City Clerk Darcie McCracken

AGENDA ITEMS FOR DISCUSSION

ALL ITEMS LISTED ARE FOR DISCUSSION ONLY. NO ACTION CAN NOR WILL BE TAKEN.

1. **"What-If" Budget Contingency Planning - General Fund Revenue**

Finance Director Doug Sandstrom presented information on the city's current financial status and offered estimates on various tax assumptions and suggested actions. He summarized recent legislative action eliminating the City's ability to charge sales tax on residential rentals, provided an overview of general fund revenue sources, and options for council discussion on how to address current and future legislative changes.

Council discussed the various options and noted that the city will take a conservative and balanced approach to any changes in revenues and expenditures while continuing to maintain a safe and good quality of life for the community.

ADJOURNMENT

There being no further business to discuss, Mayor Pizzillo adjourned the Work Session at 5:57 p.m.

_____ _____

Darcie McCracken, City Clerk Joe Pizzillo, Mayor

Date:_____

ITEM #: 2.
DATE: 09/25/2023
AI #:1438

CITY COUNCIL ACTION REPORT

SUBJECT: MAP OF DEDICATION FOR COMPASS DATACENTERS YUMA ROAD

STAFF PRESENTER(S): Marty Crossland, Interim Deputy Director of Development Engineering

SUMMARY

A map of dedication to dedicate 0.84 acres of right-of-way adjacent to the northern edge of existing Yuma Road right-of-way, west of Bullard Avenue, in order to support the width needed for street improvements constructed to meet the ultimate development requirements.

STRATEGIC PLAN ALIGNMENT



RECOMMENDATION

Approve the Map of Dedication for Yuma Road, subject to stipulations. (Marty Crossland, Interim Deputy Director of Development Engineering)

STIPULATIONS

1. Any technical corrections to this final plat required by the City Engineer or his designee shall be made prior to the recordation of the MOD; and
2. Prior to recordation of the MOD, Owner shall submit a current title report for the property and shall modify this plat to reflect the current ownership and current lender, including on the map of dedication a Lender Consent and Subordination in a form approved by the City Attorney or his/her designee for all lenders with a security interest in the Property being platted herein. Owner shall provide documentation acceptable to the City Attorney or his/her designee demonstrating that the persons executing this final plat are authorized to do so; and
3. Prior to the recordation of this MOD, all civil construction plans for the portion of Yuma Road being dedicated to the City in this MOD shall be approved by the City Engineer or his/her designee; and
4. Yuma Road Median Improvements. Owner shall not construct or install median improvements or landscaping within the median as part of the Yuma Road Improvements, but shall instead make an In-Lieu Payment to the City in the amount of $158,756.00 for one-half (1/2) of the cost of the full median and full median landscaping. The In-Lieu Payment referred to herein shall be paid prior to the issuance of the first civil construction permit for the

construction of all or part of the Yuma Road Improvements; and
5. Any technical corrections to the MOD required by the City Engineer shall be made prior to the recordation of the MOD.

FISCAL IMPACT

Although a fiscal impact analysis has not been conducted on this specific project, all new development will have an ongoing fiscal impact on the City. The development is responsible for construction of all infrastructure necessary to serve the site and will generate one-time revenue for the City through payment of permits, construction sales tax and development impact fees. Longer term fiscal impacts include increased demands for municipal services, the costs of which may or may not be offset by increased property values/tax levies, city sales tax, state shared revenues and the increased demand for commercial and retail development. Any areas that will be maintained by the city are constructed by the developer and then conveyed to the city two years after construction.

BACKGROUND AND PREVIOUS ACTIONS

· Final Plat of Compass Datacenters-PHX1 was recorded on 8/8/2019 Book 1476 Page 49.
· Minor Land Division of Parcel 1 Compass Datacenters-PHX1 was recorded on 10/19/2021 Book 1625 Page 19.
· The Compass Datacenters site plan amendment for BLDG 2 was approved by the Development Review Committee on September 14, 2022; site plan amendment for PH 3 – 6 was approved by the Development Review Committee on April 17, 2023;
· Civil engineering construction documents for Compass Datacenters Yuma Rd (22-5531) are currently under review by city staff.

STAFF ANALYSIS

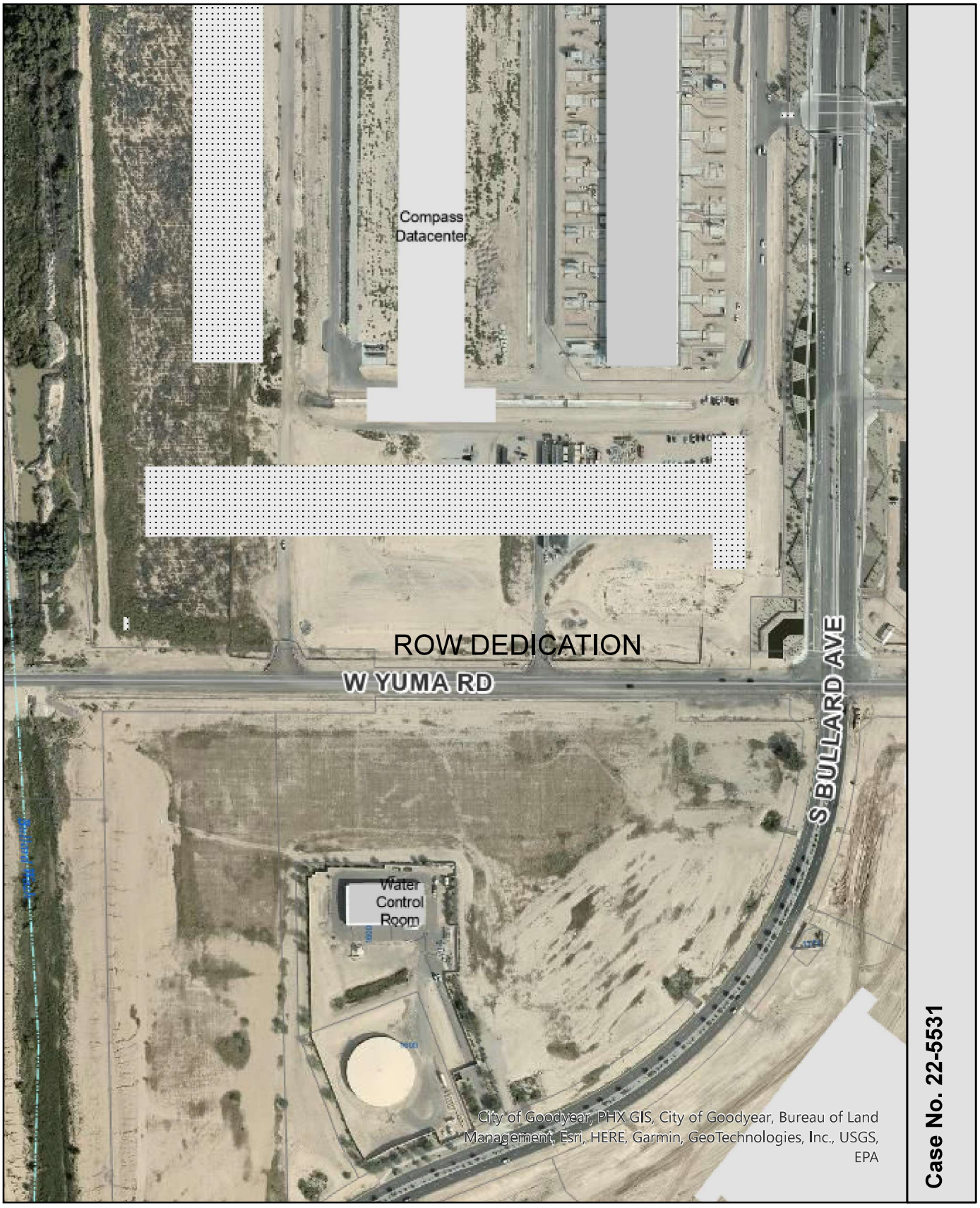
The right-of-way width and road alignment established with this map of dedication (MOD) is consistent with the city of Goodyear Transportation Master Plan. The approval of this MOD will provide the necessary city right-of-way width in which Project Hustle can construct the offsite infrastructure improvements required by the project.

Attachments

Aerial Photo
MOD

Aerial Photo Exhibit

Compass Datacenters Yuma Rd



MAP OF DEDICATION
FOR
"YUMA ROAD"
BEING WITHIN A PORTION OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA

DEDICATION

STATE OF ARIZONA)
) SS
COUNTY OF MARICOPA)

KNOW ALL MEN BY THESE PRESENTS:

THAT **COMPASS DATACENTERS PHX I, LLC, A DELAWARE LIMITED LIABILITY COMPANY**, AS OWNER, HAS DEDICATED UNDER THE NAME OF "**YUMA ROAD**", A MAP OF DEDICATION, BEING WITHIN A PORTION OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 1 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AS SHOWN AND PLATTED HEREON **COMPASS DATACENTERS PHX I, LLC, A DELAWARE LIMITED LIABILITY COMPANY** HEREBY PUBLISHES THIS MAP OF DEDICATION AS AND FOR THE MAP OF DEDICATION AND HEREBY DECLARES THAT SAID MAP SETS FORTH THE LOCATION AND GIVES THE DIMENSIONS OF THE RIGHTS OF WAY CONSTITUTING SAME AND THAT SAID RIGHT OF WAY SHALL BE KNOWN BY THE NAME THAT IS GIVEN RESPECTIVELY. THAT **COMPASS DATACENTERS PHX I, LLC, A DELAWARE LIMITED LIABILITY COMPANY**, AS OWNER, HEREBY DEDICATES TO THE CITY OF GOODYEAR, ARIZONA FOR PUBLIC USE UPON OFFICIAL ACCEPTANCE BY THE CITY OF GOODYEAR, THE RIGHT-OF-WAY SHOWN ON SAID MAP OF DEDICATION.

COMPASS DATACENTERS PHX I, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AS OWNER, HEREBY DEDICATES, GRANTS, AND CONVEYS TO THE CITY OF GOODYEAR, IN FEE, THE STREET SHOWN ON THIS MAP OF DEDICATION FOR YUMA ROAD AND INCLUDED IN THE PREMISES DESCRIBED HEREIN.

IN WITNESS WHEREOF:

COMPASS DATACENTERS PHX I, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AS OWNER, HAS HEREUNTO CAUSED ITS NAME TO BE SIGNED AND THE SAME TO ATTESTED BY THE SIGNATURE OF _____ DULY AUTHORIZED ON THIS _____ DAY OF _____ 202_.

COMPASS DATACENTERS PHX I, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AS OWNER.

BY: _____
J. JARED DAY, PRESIDENT

ACKNOWLEDGMENT

STATE OF TEXAS)
) SS
COUNTY OF DALLAS)

BEFORE ME, _____, ON THIS DAY PERSONALLY APPEARED J. JARED DAY, PROVED TO ME BY HIS TEXAS DRIVERS LICENSE TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS THE ACT OF **COMPASS DATACENTERS PHX I LLC, A DELAWARE LIMITED LIABILITY COMPANY** AS ITS PRESIDENT FOR THE PURPOSES AND CONSIDERATION EXPRESSED IN THE INSTRUMENT.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ DAY OF _____, 20____.

LENDER CONSENT AND RELEASE

THE UNDERSIGNED, AS THE BENEFICIARY/AGENT UNDER A CERTAIN DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING DATED DECEMBER 16, 2021 RECORDED IN THE OFFICIAL RECORDS OF MARICOPA COUNTY, AZ AT DOCUMENT NO. 2021-1334367 AS AMENDED BY THAT CERTAIN DEED OF PARTIAL RELEASE AND PARTIAL RECONVEYANCE DATED OCTOBER 27, 2022 RECORDED IN THE OFFICIAL RECORDS OF MARICOPA COUNTY, AZ AT DOCUMENT NO. 2022-0875534 AS FURTHER AMENDED BY THAT CERTAIN FIRST AMENDMENT TO DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING AND FIRST AMENDMENT TO ABSOLUTE ASSIGNMENT OF LEASES AND RENTS DATED DECEMBER 28, 2022 RECORDED IN THE OFFICIAL RECORDS OF MARICOPA COUNTY, AZ AT DOCUMENT NO. 2022-0914501 (THE DEED OF TRUST) AND UNDER THAT CERTAIN ABSOLUTE ASSIGNMENT OF LEASES AND RENTS DATED DECEMBER 16, 2021 RECORDED IN THE OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA AS DOCUMENT NUMBER 2021-1334368 AS AMENDED BY THAT CERTAIN DEED OF PARTIAL RELEASE AND PARTIAL RECONVEYANCE DATED OCTOBER 27, 2022 RECORDED IN THE OFFICIAL RECORDS OF MARICOPA COUNTY, AZ AT DOCUMENT NO. 2022-0875534 AS FURTHER AMENDED BY THAT CERTAIN FIRST AMENDMENT TO DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING AND FIRST AMENDMENT TO ABSOLUTE ASSIGNMENT OF LEASES AND RENTS DATED DECEMBER 28, 2022 RECORDED IN THE OFFICIAL RECORDS OF MARICOPA COUNTY, AZ AT DOCUMENT NO. 2022-0914501 (THE ASSIGNMENT OF RENTS) ENCUMBERING THE PROPERTY SUBJECT TO THIS MAP OF DEDICATION, HEREBY EXPRESSLY CONSENTS TO AND JOINS IN THE EXECUTION AND RECORDING OF THIS MAP OF DEDICATION AND DOES HEREBY RELEASE FROM THE DEED OF TRUST, THE ASSIGNMENT OF RENTS, AND THE LOAN SECURED THEREBY THAT PORTION OF THE PROPERTY CONVEYED TO THE CITY OF GOODYEAR IN FEE AS SHOWN ON THIS MAP OF DEDICATION. IT IS EXPRESSLY UNDERSTOOD THAT THIS RELEASE APPLIES ONLY TO THE PORTIONS OF THE PROPERTY BEING CONVEYED AND DEDICATED TO THE CITY OF GOODYEAR IN THIS MAP OF DEDICATION AND SHALL NOT IN ANY WAY, AFFECT THE DEED OF TRUST OR THE ASSIGNMENT OF RENTS UPON THE REMAINDER OF THE PROPERTY. THE UNDERSIGNED REPRESENTS THAT HE OR SHE HAS FULL POWER AND AUTHORITY TO EXECUTE THIS LENDER'S CONSENT AND RELEASE ON BEHALF OF THE LENDER AS BENEFICIARY UNDER THE DEED OF TRUST AND ASSIGNMENT OF RENTS.

CITIZENS BANK, N.A., A NATIONAL BANKING ASSOCIATION

ACKNOWLEDGMENT

STATE OF ARIZONA)
) SS
COUNTY OF MARICOPA)

ON THIS THE _____ DAY OF _____, 2023, _____ PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED NOTARY PUBLIC AND ACKNOWLEDGED HIM/HERSELF TO BE _____ OF CITIZENS BANK, N.A., A NATIONAL BANKING ASSOCIATION AND THAT HE/SHE BEING DULY AUTHORIZED SO TO DO, EXECUTED THIS RATIFICATION AND CONSENT FOR THE PURPOSES CONTAINED HEREIN.
IN WITNESS WHEREOF:

I HEREBY SET MY HAND AND OFFICIAL SEAL:

BY: _____ DATE: _____
NOTARY PUBLIC

MY COMMISION EXPIRES: _____

LEGAL DESCRIPTION

A PORTION OF LAND BEING SITUATED WITHIN THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 3 INCH BRASS CAP FLUSH STAMPED "CITY OF GOODYEAR", ACCEPTED AS THE SOUTHEAST CORNER OF SAID SECTION 8 FROM WHICH A FOUND BRASS CAP FLUSH STAMPED "CITY OF GOODYEAR" ACCEPTED AS THE SOUTH QUARTER CORNER THEREOF BEARS SOUTH 89°26'32" EAST, 2587.42 FEET;

THENCE SOUTH 89°26'32" EAST, 189.65 FEET ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER;

THENCE LEAVING SAID SOUTH LINE, NORTH 00°33'28" EAST, 33.00 FEET TO A LINE PARALLEL WITH AND 33.00 FEET NORTH OF SAID SOUTH LINE AND ALSO BEING THE **POINT OF BEGINNING;**

THENCE ALONG SAID PARALLEL LINE, NORTH 89°26'32" WEST, 872.38 FEET;

THENCE LEAVING SAID PARALLEL LINE, NORTH 00°33'28" EAST, 42.00 FEET TO A LINE PARALLEL WITH AND 75.00 FEET NORTH OF SAID SOUTH LINE;

THENCE ALONG SAID PARALLEL LINE, SOUTH 89°26'32" EAST, 872.38 FEET;

THENCE LEAVING SAID PARALLEL LINE, SOUTH 00°33'28" WEST, 42.00 FEET TO THE **POINT OF BEGINNING.**

NOTES

1. THIS DEVELOPMENT IS WITHIN THE SERVICE AREA OF THE CITY OF GOODYEAR WHICH HAS BEEN DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT TO ARS 45-576 SUBSECTION B. THE CITY OF GOODYEAR'S ASSURED WATER SUPPLY DESIGNATION IS SUPPORTED IN PART BY THE CITY'S MEMBERSHIP IN THE CENTRAL ARIZONA GROUNDWATER REPLENISHMENT DISTRICT (CAGRD). PROPERTY WITHIN THIS DEVELOPMENT MAY BE ASSESSED A FEE BASED ON ITS PRO RATA SHARE OF THE CITY'S COST FOR CAGRD PARTICIPATION.
2. NO STRUCTURES OF ANY KIND SHALL BE CONSTRUCTED OR PLACED WITHIN OR OVER THE UTILITY EASEMENTS EXCEPT: UTILITIES, ASPHALT PAVING, GRASS, AND WOOD, WIRE OR REMOVABLE SECTION TYPE FENCING. THE CITY OF GOODYEAR SHALL NOT BE REQUIRED TO REPLACE OR PROVIDE REIMBURSEMENT FOR THE COST OF REPLACING ANY OBSTRUCTIONS, PAVING OR PLANTING THAT IS REMOVED DURING THE COURSE OF MAINTAINING, CONSTRUCTING OR RECONSTRUCTING UTILITY FACILITIES.
3. THE PROPERTY OWNER SHALL BE RESPONSIBLE FOR THE PROPER MAINTENANCE AND REPAIR OF ALL FACILITIES ASSOCIATED WITH STORMWATER MANAGEMENT ON THE PROPERTY.
4. THIS DEVELOPMENT IS ADJACENT TO AGRICULTURAL USES AND IS THEREFORE SUBJECT TO NOISE, DUST AND ODORS ASSOCIATED WITH SUCH A USE.
5. ALL NEW OR RELOCATED UTILITIES SHALL BE PLACED UNDERGROUND, EXCLUDING POWER LINES 69 KV AND LARGER.
6. ALL LOT CORNERS SHALL BE MONUMENTED WITH ½" REBAR WITH CAP, TAG OR OTHER MONUMENTATION AS DESCRIBED BEARING THE REGISTRATION NUMBER OF THE SURVEYOR RESPONSIBLE FOR THEIR PLACEMENT.
7. THE CITY OF GOODYEAR IS NOT RESPONSIBLE FOR AND WILL NOT ACCEPT MAINTENANCE OF ANY PRIVATE UTILITIES, PRIVATE STREETS, PRIVATE FACILITIES, OR LANDSCAPED AREAS WITHIN THIS DEVELOPMENT.
8. THIS DEVELOPMENT IS SUBJECT TO ATTENDANT NOISE, VIBRATIONS, DUST, AND ALL OTHER EFFECTS THAT MAY BE CAUSED BY OVERFLIGHTS AND BY THE OPERATION OF AIRCRAFT LANDING AT, OR TAKING OFF FROM PHOENIX-GOODYEAR AIRPORT AND LUKE AIR FORCE BASE.
9. STRUCTURES WITHIN VISIBILITY EASEMENTS WILL BE LIMITED TO A HEIGHT OF THREE (3) FEET; LANDSCAPING WITHIN VISIBILITY EASEMENTS WILL BE LIMITED TO GROUND COVER, FLOWERS AND GRANITE LESS THAN TWO (2) FEET (MATURE) IN HEIGHT AND/OR TREES WITH BRANCHES NOT LESS THAN SEVEN (7) FEET ABOVE THE GROUND. TREES SHALL NOT BE PLACED LESS THAN EIGHT (8) FEET APART.
10. THIS DEVELOPMENT IS SUBJECT TO ATTENDANT NOISE CAUSED FROM VEHICULAR TRAFFIC ON INTERSTATE 10 AND THE PROPOSED LOOP 303.
11. ZONING DATA SHOWN HEREON OBTAINED FROM THE MARICOPA COUNTY ASSESSORS OFFICE AS PUBLISHED IN FEBRUARY 2023.

APPROVALS

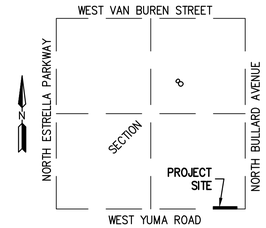
APPROVED BY THE CITY COUNCIL OF THE CITY OF GOODYEAR, ARIZONA THIS _____ DAY OF _____, 202_.

BY: _____
MAYOR-JOE PIZZILLO

ATTEST: _____
CITY CLERK-DARCIE MCCRAKEN

APPROVED BY THE CITY ENGINEER OF THE CITY OF GOODYEAR, ARIZONA THIS _____ DAY OF _____, 202_.

BY: _____
CITY ENGINEER-SUMEET MOHAN



VICINITY MAP
NOT TO SCALE

SHEET INDEX

FP01 COVER SHEET
FP02 MAP OF DEDICATION

AREA

CONTAINS 36,640 SQUARE FEET OR 0.8411 ACRES, MORE OR LESS

OWNER/DEVELOPER

COMPASS DATACENTERS PHX I LLC
14555 N. DALLAS PARKWAY, STE. 125
DALLAS, TEXAS 75254
PHONE: 214-452-0354
CONTACT: CHRIS CURTIS

SURVEYOR

HILGARTWILSON, LLC
2141 E. HIGHLAND AVE., STE. 250
PHOENIX, ARIZONA 85016
PHONE: (602) 490-0535
CONTACT: KIRK J. PANGUS RLS

REFERENCE DOCUMENTS:

1. FINAL PLAT PER BOOK 1476, PAGE 49, M.C.R.
2. MINOR LAND DIVISION PER BOOK 1625, PAGE 19, M.C.R.

FLOOD ZONE DESIGNATION

THE FOLLOWING FLOOD PLAIN DESIGNATION AND ASSOCIATED COMMENTS ARE COPIED DIRECTLY FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) WEBSITE. HILGARTWILSON, LLC AND THE UNDERSIGNED REGISTERED PROFESSIONAL LAND SURVEYOR MAKE NO STATEMENT AS TO THE ACCURACY OR COMPLETENESS OF THE FOLLOWING FLOOD ZONE DESIGNATION STATEMENT.

THE SUBJECT PROPERTY LIES WITHIN UNSHADED ZONE "X" WITH A DEFINITION OF: AREAS OUTSIDE THE 0.2-PERCENT-ANNUAL-CHANCE FLOODPLAIN. NO BFES OR DEPTHS ARE SHOWN IN THIS ZONE, AND INSURANCE PURCHASE IS NOT REQUIRED. DESIGNATION DETERMINED BY FEMA FLOOD ZONE MAP 04013C2145M, PANEL NUMBER 2145 OF 4425, EFFECTIVE DATE SEPTEMBER 18, 2020.

ZONING DESIGNATION

ZONING: I-1

BASIS OF BEARING

BASIS OF BEARING IS S89°26'32"E ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BETWEEN THE MONUMENTS AS SHOWN HEREON.

LAND SURVEYOR CERTIFICATION

I, KIRK J. PANGUS, HEREBY CERTIFY THAT I AM REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF ARIZONA; THAT THIS PLAT HEREON HAS BEEN PREPARED FROM A SURVEY PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION; THAT THE SURVEY IS TRUE AND ACCURATELY REPRESENTS THE PROPERTY DESCRIBED HEREON. I FURTHER CERTIFY THIS SURVEY WAS COMPLETED PER THE LATEST "ARIZONA BOUNDARY SURVEY STANDARDS" AND THAT ALL SURVEY MONUMENTS AND LOT CORNERS EXIST AS SHOWN HEREON; AND THAT SAID SURVEY MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED..

BY:
KIRK J. PANGUS
RLS# 19344
HILGARTWILSON, LLC.
2141 E. HIGHLAND AVENUE, SUITE 250
PHOENIX, ARIZONA 85016
P: (602) 490-0535
kpangus@hilgartwilson.com



NOTE:
A.R.S. 32-151 STATES THAT THE USE OF THE WORD "CERTIFY" OR "CERTIFICATION" BY A PERSON OR FIRM THAT IS REGISTERED OR CERTIFIED BY THE BOARD IS AN EXPRESSION OF PROFESSIONAL OPINION REGARDING FACTS OR FINDINGS THAT ARE SUBJECT OF THE CERTIFICATION AND DOES NOT CONSTITUTE AN EXPRESS OR IMPLIED WARRANTY OR GUARANTEE.

HILGARTWILSON
ENGINEER | PLAN | SURVEY | MANAGE
2141 E. HIGHLAND AVE., STE. 250 | P: 602.490.0535 / F: 602.368.2436
PHOENIX, AZ 85016 | www.hilgartwilson.com

YUMA ROAD
S. BULLARD AVENUE & W. YUMA ROAD
GOODYEAR, ARIZONA

MAP OF DEDICATION

STATUS:
MUNICIPAL TRACKING NO:
PROJ. NO.: 1854
DATE: June 2023
SCALE: AS SHOWN
DRAWN: JK
APPROVED: KJP

DWG. NO.
MOD01
SHT. 1 OF 2

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U:\1800\1854\SURVEY\PLAT\MOD\1854-MOD01.dwg 7/21/2023 12:21 PM

LEGEND

○	FOUND 1/2" REBAR W/ CAP, RLS 19344 OR AS NOTED
⊡	FOUND BRASS CAP IN HAND HOLE
◎	FOUND BRASS CAP FLUSH
●	SET 1/2" REBAR W/ CAP, RLS 19344 OR AS NOTED
———	BOUNDARY LINE
——— ———	SECTION LINE
– – – – – – – – –	EASEMENT
———	PARCEL LINE
R/W	RIGHT-OF-WAY
MCR	MARICOPA COUNTY RECORDS
RLS	REGISTERED LAND SURVEYOR
APN	ASSESSOR PARCEL NUMBER

N

40 20 0 40 80

SCALE: 1" = 40'

EAST QUARTER CORNER
SECTION 8, T1N, R1W
FOUND 3" BRASS CAP IN HAND HOLE,
DOWN 0.80', STAMPED "MARICOPA COUNTY
T1N 1/4 R1W S8 S9 D.O.T. 37174" DATED
2003

S. BULLARD AVENUE

S00°49'24"W 2638.23'

S89°26'32"E 125.00'

N00°49'24"E 125.00'

PARCEL 3
BOOK 1476, PAGE 49, M.C.R.
CITY OF GOODYEAR
APN 500-10-386
ZONING "I-1"
DOCUMENT NO. 2021-0627060
(NOT A PART)

S00°49'24"W 92.00'

S45°41'26"W
46.78'

N89°26'32"W 92.00'

S00°33'28"W
42.00'

P.O.B.

75' R/W
BOOK 1476,
PAGE 49 MCR

N00°33'28"E 33.00'

189.65'

SOUTHEAST CORNER
SECTION 8, T1N, R1W
FOUND 3" BRASS CAP FLUSH
STAMPED "CITY OF GOODYEAR"
P.O.C.

N00°41'10"W 200.00'

654.56'

N89°26'32"W

42' R/W PER DOC.
2009-1042743 MCR

75' R/W

**N00°33'28"E
42.00'**

PARCEL 1A
BOOK 1625, PAGE 19, M.C.R.

COMPASS DATACENTERS PHX I LLC
APN: 500-10-899
ZONING "I-1"
DOCUMENT NO. 021-11122
(NOT A PART)

S89°26'32"E 872.38'

42'

W. YUMA ROAD

42'

N89°26'32"W 872.38'

33' DECLARED ROAD
BOOK 1 OF ROAD MAPS,
PAGE 9, M.C.R.

33' DECLARED ROAD
BOOK 1 OF ROAD MAPS,
PAGE 9, M.C.R.

33' DECLARED ROAD
BOOK 1 OF ROAD
MAPS, PAGE 9,
M.C.R.

SOUTH QUARTER
CORNER SECTION 8,
T1N, R1W FOUND 3"
BRASS CAP FLUSH
STAMPED "CITY OF
GOODYEAR"

2397.77'
S89°26'32"E 2587.42'
(BASIS OF BEARING)

8' ELECTRICAL
EASEMENT PER DOCUMENT
2019-0283143, M.C.R.
TERMINATED PER DOCUMENT
NO. ———

42' R/W PER DOC.
2009-1042744 MCR

75' R/W

GOODYEAR BALLPARK VILLAGE HOLDINGS LLC
APN 500-07-008Q
ZONING "MF-24"
DOCUMENT NO. 2022-0217096
(NOT A PART)

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
19344
KIRK J.
PANGUS
7/25/2023
Signed
ARIZONA, U.S.A.

U:\1800\1854\SURVEY\PLAT\MOD\1854-MOD02.dwg 7/21/2023 12:23 PM

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HILGARTWILSON
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PHOENIX, AZ 85016 www.hilgartwilson.com

YUMA ROAD

S. BULLARD AVENUE & W. YUMA ROAD
GOODYEAR, ARIZONA

MAP OF DEDICATION

PROJ. NO.: 1854	STATUS:
DATE: June 2023	
SCALE: AS SHOWN	MUNICIPAL TRACKING NO:
DRAWN: JK	
APPROVED: KJP	

DWG. NO.
MOD02
SHT. 2 OF 2

ITEM #: 3.
DATE: 09/25/2023
AI #:1593

CITY COUNCIL ACTION REPORT

SUBJECT: AMEND CHAPTER 12 (SEWERS) OF THE GOODYEAR CITY CODE

STAFF PRESENTER(S): Todd Carpenter, Deputy Water Services Director; Barbara Chappell, Water Services Director

SUMMARY

Adoption of this Ordinance will amend Chapter 12 (Sewers) of the Goodyear City Code to update definitions and change responsibilities between owners and City in regard to sewer connections.

STRATEGIC PLAN ALIGNMENT

Quality of Life | Fiscal Resource Management | Sense of Community

RECOMMENDATION

1. ADOPT RESOLUTION NO. 2023-2337 DECLARING A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND TITLED “AMENDING CHAPTER 12 (SEWERS) OF THE GOODYEAR CITY CODE.”

2. ADOPT ORDINANCE NO. 2023-1583 AMENDING CHAPTER 12 (SEWERS) OF THE GOODYEAR CITY CODE TO AMEND AND REPLACE CHAPTER 12 IN ITS ENTIRETY; PROVIDING FOR CORRECTIONS; SEVERABILITY; PENALTIES AND AN EFFECTIVE DATE. (Todd Carpenter, Deputy Water Services Director and Barbara Chappell, Water Services Director)

FISCAL IMPACT

Currently, owners are responsible for service line repairs from the dwelling unit to the sewer main connection in the street. The proposed amendment will have the owners responsible for only the sewer service lines on their private properties. This leaves any repairs on the sewer service lines from the private property to the main sewer connection the responsibility of the City. These types of repairs are not planned, but the Collections Division anticipates between 10-15 repairs of this type annually given the age of our sewer system. The current annual budget has a line item and funds to support these types of unplanned repairs. Future base

budget impacts will be evaluated and likely increased due to increase in repairs costs, increase in the number of service connections in the system, and age of the system.

BACKGROUND AND PREVIOUS ACTIONS

The current language in the Sewer Ordinance has the Owner responsible for service line repairs from the dwelling unit to the sewer main connection in the street. As written and enforced, this ownership responsibility requires residents and businesses to repair or replace service lines under sidewalks and in the right-of-way at their own expense. This requirement creates large repair costs for our customers as well as inequity in repair costs based on where the sewer main line might be constructed under the street.

Staff reviewed other city policies, city responsibilities, owner's responsibilities, and insurance programs for comparison. Upon review of the information and efficacy of various policies and programs, staff thought it was in the best interest of our customers to revise the current sewer ordinance.

Water Services staff have worked with Legal, Customer Service, and Collections Operations staff to review and provide suggested revisions and edits which have been incorporated into the proposed Ordinance to change the service line repair responsibilities.

STAFF ANALYSIS

As the responsibilities of owners are written in the current ordinance, residents and businesses can be impacted financially for service line repairs, typically in a range between $7,000 to $15,000 depending on the specific issue with the sewer pipe. These repairs also require private contractors, hired by the owners, to tap into our sewer mains as well as to replace pavement and sidewalks in city rights-of-way.

By revising the definition of Service Line, the responsibility for service line repairs in easements, and right-of-way to the city, will be consistent with other utilities. This limits the residents and business owners' responsibility for repairs of service lines to their private property.

The advantage of these changes to the city is that public sewer infrastructure can be protected and repaired in a consistent and reliable fashion. Ensuring that the sewer collection system is repaired, replaced, and that it flows correctly, is a quality-of-life benefit to our residents and businesses.

Attachments

Resolution 2023-2337

Ordinance 2023-1583

REDLINED VERSION - Chapter 12 Sewers

RESOLUTION NO. 2023-2337

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, DECLARING A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND TITLED “AMENDING CHAPTER 12 (SEWERS) OF THE GOODYEAR CITY CODE.”

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. DECLARATION OF PUBLIC RECORD

That a certain document titled "Amending Chapter 12 (Sewers) of the Goodyear City Code," a copy of which is attached hereto as Exhibit A, is hereby declared a public record.

SECTION 2. PURPOSE

The aforementioned document is declared a public record in connection with the adoption of Ordinance No. 2023-1583.

SECTION 3. COPIES FILED WITH THE CITY CLERK

Either three paper copies or one paper copy and one electronic copy maintained in compliance with section A.R.S 44-7041 of each of the aforementioned documents being declared public records herein are ordered to remain on file with the City Clerk and to be available for public use and inspection during regular business hours.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, by a _____ vote, this _____ day of _____, 2023.

_____
Joe Pizzillo, Mayor

Date: _____

ATTEST:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

EXHIBIT "A"

AMENDING ARTICLE 12 (SEWERS) OF THE GOODYEAR CITY CODE

Pursuant to Ordinance No. 2023-1583 adopted by the City of Goodyear City Council on September 25, 2023, CHAPTER 12 (Sewers) of the Goodyear City Code is hereby amended to replace all Articles, Sections, and Subsections of Chapter 12 in its entirety to read as follows:

Chapter 12
SEWERS

Article

12-1 Definitions
12-2 Service and Billing
12-3 Department and Customer Responsibilities
12-4 Use of Public Sewers
12-5 Extension of Service
12-6 Sections As Part of Contract
12-7 Enforcement
12-8 Effluent Service

Article 12-1
DEFINITIONS

Section

12-1-1 Definitions.

§ 12-1-1 DEFINITIONS.

For the purpose of this chapter, the following definitions, (and their plural versions), and those set forth in Chapter 12A shall apply unless the context clearly indicates or requires a different meaning:

CESSPOOL means a covered excavation in the ground receiving sewage or other organic wastes from a drainage system that is designed to retain the organic matter and solids, permitting the liquids to seep into the soil cavities.

CITY MANAGER means the City of Goodyear City Manager or his/her designee.

CITY SEWER SERVICE AREA means any area where sewer infrastructure is present.

COMMERCIAL ACCOUNT means an account for a profit or nonprofit business, and multi-family residential accounts.

CUSTOMER means the property owner or any person, renter, lessee, occupant, government agency, nonprofit or entity responsible for payment of utility service(s) provided by the City.

DIRECTOR means the person or his/her designee authorized by the City Manager to administer, implement and enforce the provisions of this chapter.

EFFLUENT OR RECLAIMED WATER means non-potable water derived from processing sewage and which is used for certain landscape watering purposes, industrial use or other purposes.

INHABIT means to live or dwell in any structure required to have a utility account on a temporary or permanent basis.

NATURAL OUTLET means any outlet into a watercourse, ditch or other body of surface or ground water.

OCCUPANT means a person, persons or legal entity that, through rights of ownership, tenancy or other legal means has possession or the use of the subject real property.

PERSON means any enterprise, individual, partnership, co-partnership, firm, company, corporation, association, trust, estate, governmental entity, municipality, State or Federal agency or any other legal entity; or their legal representatives, agents, assigns or employee thereof.

PRIVATE SEWAGE DISPOSAL SYSTEM means an on-site wastewater treatment facility, as defined in 18 AAC 9, Article 3, Rule R18-9-101, that consists of a conventional septic tank system or alternative, engineered system installed at a site to treat and dispose of wastewater, predominantly of human origin, generated at the site.

PRIVY means a structure not connected to a plumbing system and which is used by persons for the deposition of human body waste.

PROPERTY OWNER means any person, with reference to real property, that holds or has any of the following: fee title, equitable title, any possessory right, the right to occupy the premises, or the right to lease, sublease or authorize another to occupy the premises for real property located in the City of Goodyear. A person is presumed to be a property owner if identified as such on any of the following: a deed, contract, lease agreement, sales agreement, the Maricopa County Recorder's Office, Maricopa County Assessor's Office and/or any other public record system wherein these records may be located.

RECREATIONAL VEHICLE SANITARY DUMPING STATION means a facility intended to receive the discharge of Sewage from any holding tank or similar device installed in any vehicle or trailer equipped with living space and amenities found in a home, and having a means of discharging the contents into the Sanitary Sewer System that has been approved as provided in Section 12-3-4(C).

SANITARY SEWER SYSTEM means a City owned sewer system that carries Sewage from residential, commercial and industrial facilities and to which storm, surface and ground waters are not intentionally admitted.

SEWER SERVICE LINE means the pipe line for the delivery of Sewage from a Sewer Main to a structure.

SEPTIC TANK means a tank that receives and partially treats sewage through processes of sedimentation, flotation and bacterial action to separate solids from the liquid in the sewage, and which discharges the liquid to a soil absorption system.

SEWAGE means untreated wastes from toilets, baths, sinks, lavatories, laundries, and other plumbing fixtures and untreated wastes from a Recreational Vehicle Sanitary Dumping Station.

SEWER MAIN means a pipeline within City owned right-of-way or easement that is designed to accept Sewage from multiple sources and for delivery to a City sewage treatment facility**.**

SEWER METER OR METER means a device used to measure the quantity or rate of sewage flowing into the sanitary sewer system.

SEWER SYSTEM ("SEWER") means the complete sanitary sewer system, including sewer mains, manholes, Sewer Service Lines, pipelines or conduits, pumping stations, forced mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting Sewage to an ultimate point for treatment or disposal.

SINGLE FAMILY RESIDENCE means one single family detached dwelling.

SINGLE FAMILY RESIDENTIAL ACCOUNT means an account for a single family detached dwelling which receives utility services from the City.

STRUCTURE means any building for which Sewer Service is provided.

UTILITY ACCOUNT means all accounts with the City of Goodyear for sanitation, sewer and/or water when provided by the City.

UTILITY SERVICE means sewer, sanitation and/or water service provided by or on behalf of the City of Goodyear.

Article 12-2
SERVICE AND BILLING

Section

12-2-1 Connection required.

12-2-2 Application for service.

12-2-3 Grounds for rejection of application.
12-2-4 Security deposit.
12-2-5 Sanitary sewer system charges.
12-2-6 Customer service charges and payment.
12-2-7 Discontinuance of service.
12-2-8 Notice of termination of service.
12-2-9 Termination under certain conditions.

§ 12-2-1 CONNECTION REQUIRED.

(A) *Connection Required.* All persons owning real property located within the City's Sewer Service Area upon which any building, structure, trailer or house is and which can be served by the sanitary sewer system shall be connected to the sanitary sewer system of the City or, if the sanitary sewer system is not available to said real property, to a private sewer system as provided herein. Service will be considered available when a sanitary sewer system sewer main is located within 100 feet of any part of the property, unless determined otherwise by the City Manager or designee.

(B) All persons in the City must sign up and pay monthly for sewer services for properties located within the City of Goodyear at the time their structure is purchased, owned, leased, used or occupied, whichever occurs first, when such services are provided by the City or when the properties are physically connected to the City's sewer system.

(C) All persons outside the City must sign up and pay monthly for sewer services at the time their residence is purchased, owned, leased, used or occupied, whichever occurs first, when the property is physically connected to the City's sewer system.

(D) All property owners shall provide the City with the names of all tenants occupying the property owner's property within 30 days of occupancy.

(E) Base fees and any charges for sewer service shall apply when there is active water service, even if a building is unoccupied.

(F) No person within the City shall be permitted to avoid or refuse to accept sanitary sewer service if available to be provided by the City. The failure of any person to accept sanitary sewer service shall not exempt that person from the payment of the charges for the service and any fine or penalty for noncompliance.

(G) *Failure to Subscribe.* Any person that is required to receive sanitary sewer service from the City who fails to activate a utility account with the City as required in this section shall be subject to penalties, which include but are not limited to the total monthly fees they would have been assessed and an activation fee. This shall be in addition to any other fine or penalty provided in this chapter.

(H) It is unlawful for any property owner to allow any person to lease, rent or inhabit the property owner's property if that person leasing, renting, occupying or inhabiting the property owner's property does not maintain all utility services available and provided by the City.

(I) It is unlawful for any person to lease, rent or inhabit any property if that person does not maintain all utility services available and provided by the City.

(J) It is unlawful for any person to lease, rent, or inhabit any property if that person deposits or discharges or permits to be deposited or discharged any liquid, substance or sewage into the sanitary sewer system connected to that property if that person does not maintain a utility account with the City for sewer services when such services are provided by the City.

(K) For purposes of this section, it is presumed that any person who leases, rents, or inhabits any property and has water service is depositing or discharging substances or sewage into the sanitary sewer system connected to that property.

(L) For purposes of this section, maintain a utility account means to open and keep open an active account with the City for all utility services available and provided by the City and to make all payments when due on that account.

§ 12-2-2 APPLICATION FOR SERVICE.

(A) *Application for Sewer Service.* Service applications are required of all persons requesting activation of any utility service(s). Application information must be submitted for each service address. An application must also be submitted when requesting any transfer of service. An activation fee will be charged for the activation of any utility service. The activation fee will be due at the time an application is submitted. No more than one activation fee will be required when a person is signing up for multiple utility services with the City at one location.

(B) *Required Information.* Applicants shall provide the following information when activating an account.

(1) *Single Family Residential Accounts.*

(a) Legal names of all responsible parties, entity or individual, must include all persons identified on the rental or lease agreement;

(b) Social security number and/or Federal tax identification number for commercial entities;

(c) Service address;

(d) Mailing address, if different;

(e) If property owner, provide proof of ownership;

(f) If tenant, provide landlord's name and address and copy of occupancy agreement (rental or lease agreement);

(g) If agent, provide proof of agency;

(h) Requested start date;

(i) A photocopy of a valid driver's license/identification card or other official government identification; and

(j) Any other information deemed relevant by the Director.

(2) *Commercial Accounts.*

(a) Legal name(s) of all responsible parties/entities.

(b) Federal tax identification number and/or social security number;

(c) Service address;

(d) Mailing address, if different;

(e) Name and address of property owner(s).

(f) If property owner, provide proof of ownership.

(g) If tenant, provide:

1. Landlord's name and address and copy of rental or lease agreement.

2. Names of all persons identified on the rental or lease agreement;

(h) If agent, provide proof of agency;

(i) Requested start date;

(j) A photocopy of a valid driver's license/identification card, or other official government identification; and

(k) Any other information deemed relevant by the Director.

(C) All applications for any and all utility service(s) submitted by any person or entity shall be signed by the person who will be responsible for payment of the utility service(s) to be provided by the City, or a person legally authorized to act on their behalf. When submitting an application electronically, the named applicant(s) on the application will be deemed to have signed the application.

(D) It is the responsibility of the customer to ensure that the customer's contact and billing information on file with the City remains current at all times.

§ 12-2-3 GROUNDS FOR REJECTION OF APPLICATION.

The City reserves, at all times, the right to reject an application or terminate any utility service should any person provide false or misleading information on their application; fails or refuses to provide all information requested on the application; sewer services are not available to the property; or until the applicant requesting service pays in full any and all outstanding utility balance(s) for all utility accounts of the named applicant(s).

§ 12-2-4 SECURITY DEPOSIT.

(A) *Security Deposit.* A refundable security deposit, the amount of which shall be established by resolution of the Council, shall be charged for the activation of sewer services. The deposit may be paid in two monthly installments at the discretion of the Director. Upon receipt of a written request from the customer, the Director may waive the deposit required under this section if during the preceding 18 months the applicant's payment history with any public utility or government entity evidences that the applicant has timely paid their bills for 12 consecutive months or for other reasons that protect the City's interests. All deposits shall be retained by the City as security for payment of future utility service charges until all utility services are terminated or discontinued and the account is closed with the outstanding balance on all utility accounts paid in full. The customer's deposit may be returned to the customer if there have been no late utility payments during the prior 12 months on the customer's account.

(B) In the event a customer's deposit has been refunded or waived as herein provided, the Director may require a new deposit as a condition of continued service in the event the customer fails to pay the charges required under Chapter 10, 12 or 14, when each bill is due and payable for any three billing periods within the prior 12 month period. The three billing periods need not be consecutive.

(C) No more than one deposit shall be required and retained when multiple services are received on the same account.

(D) *Owner Guarantee.* A property owner may pay the deposit required for utility services on behalf of a tenant, or the deposit may be waived on behalf of a tenant, if the property owner meets the waiver requirements set forth in subsection (A) of this section, and if, in either situation, the property owner agrees to be financially responsible for the payment of any and all unpaid amounts due for utility services provided to the tenant and the tenant consents to the City's disclosure of the tenant's utility account information to the property owner.

§ 12-2-5 SANITARY SEWER SYSTEM CHARGES.

(A) Charges for sanitary sewer service will include a monthly wastewater base fee plus a volume charge for all City sewer customers.

(1) The monthly wastewater base fee shall be set by resolution of Council and volume rates.

(2) The monthly wastewater volume charge shall be determined as follows:

(a) *Single-Family Residential Accounts.* The volume of wastewater contributed by single-family residential accounts shall be set at the average monthly water billed during the immediately preceding months of January, February and March. Billing adjustments based on changes in usage shall be implemented in May of each year. If the Director determines that adequate meter information is not available for billing a single-family residential account, then the account will be charged an average monthly billing for that user class;

(b) *Commercial Accounts.* The volume of wastewater contributed by commercial and multi-family residential accounts shall be set at 80% of monthly water billing. If the Finance Director determines that adequate meter information is not available for billing a commercial or multi-family residential account, then the account will be charged an average monthly billing for that user class;

(c) *Direct Metering.* When a sewage meter has been installed, the sewer volume charges shall be calculated based on total volume discharged into the sanitary sewer system during the monthly billing cycle.

(B) Rates for sanitary sewer service shall be established by resolution of Council and Council shall provide different rates based upon whether the service location is within the City limits, outside the City limits but within the incorporated limits of another municipality, or outside the City limits and outside the incorporated limits of another municipality.

§ 12-2-6 CUSTOMER SERVICE CHARGES AND PAYMENT.

(A) The customer shall be required to pay monthly sewer service fees and additional fees which may include but are not limited to security deposits, account activation fees, field visit fees, non-sufficient funds fees, delinquent account fees, late fees, interest, collection fees or such other fees as authorized by City Code or resolution. All such fees shall be established by Council by way of resolution. The amount of the monthly service fee shall be based on the size of the water meter(s) installed on the property and approved by the City. For any property without a City approved water meter, the monthly service charge shall be based on the water meter size required by the City. Any interruption in physical occupancy, whether temporary or permanent, of the property served by the connection for which said service charge is made shall not cause an abatement or termination of such monthly sewer service charge.

(B) *Billing, Payment, Delinquency and Discontinuance of Service.* All fee and service charges are due and payable when rendered. Payment must be received by the due date identified on the bill. If the total amount of the bill is not paid by the due date, a notice of delinquency and intent to disconnect service will be mailed to the customer indicating the scheduled disconnect date. If the total amount due on the bill is not paid prior to the scheduled disconnect date, the notice of delinquency and intent to disconnect having been given, service will be disconnected.

(C) *Payment Plan.* The customer may enter into a payment plan agreement with the Director for the payment of any delinquent amount. Failure to comply with the payment plan agreement will result in the imposition of fees and penalties relating back to the original date of the outstanding debt and may result in the imposition of additional fees and costs as provided by the City Code and discontinuance of utility service.

(D) *Hearing Provided.* All customers that dispute the account balance, or termination of service for nonpayment of amounts due, may submit an appeal in writing to the City Manager within 14 calendar days after the notice has been mailed, or emailed, to the customer's address on file with the City. The written request must set forth fully the facts supporting the appeal and relief requested. A separate appeal must be filed for each dispute. The City Manager shall issue a written decision within 14 working days from the City Manager's receipt of the appeal. The decision and order of the City Manager on such appeal shall be final and conclusive. The request for hearing shall not waive or stay the collection of any fees or charges that may be due.

§ 12-2-7 DISCONTINUANCE OF SERVICE.

(A) All requests for discontinuance of sewer service must be made in writing by the customer or their authorized agent and submitted to the City along with proof of termination of water service from the water provider, if applicable. When discontinuance of sewer service is requested from any premises all charges for services supplied to the premises shall be calculated and due on the date specified on the bill. The customer requesting discontinuance of service must provide a change of address with their request to discontinue service.

(B) Until the customer provides a written request to terminate to the City, the premises shall be deemed occupied, and services charges will continue to accrue.

(C) In the event that the customer shall have made a deposit and the deposit is still being retained, the deposit amount will be applied to the balance owing on all utility accounts with the City. Any credit remaining on the account after the account has been paid will be mailed to the customer at the address provided in their request to discontinue service.

(D) Any outstanding balances due on the utility account(s) shall be collected as provided by law.

§ 12-2-8 NOTICE OF TERMINATION OF SERVICE.

(A) It is the policy of the City to terminate utility service to customers by reason of nonpayment of bills as provided herein.

(1) All bills are due and payable on the date set forth on the bill; and

(2) If the total amount of the outstanding bill is not paid by the due date, a service termination notice will be mailed to the customer indicating the scheduled disconnect date, and customer will be assessed an administrative penalty fee set by resolution of Council. If the total amount due is not paid by the due date on the disconnect notice, service will be disconnected for nonpayment and fees may be assessed; and additional fees and charges will be assessed and continue to accrue until the past due balance is paid in full.

(3) A customer that disputes the account balance, meter reading, or termination of service for nonpayment of amounts due, may submit an appeal in writing to the City Manager within 14 calendar days after the notice has been mailed, or emailed, to the customer's address on file with the Finance Department. The written request must set forth fully the facts supporting the appeal and the relief requested. A separate appeal must be filed for each dispute. The City Manager shall have authority to compromise disputed billings or establish payment arrangements. The City Manager shall issue a written decision within 14 working days from the City Manager's receipt of the appeal. The decision and order of the City Manager on such appeal shall be final and conclusive. Utility services will not be terminated until after the expiration of the appeal period and/or the decision from the City Manager.

(B) When it becomes necessary for the City to terminate utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, in addition to a reconnect fee in an amount to be set by resolution of Council. Reconnect of service will be completed during the next business day unless the customer requests otherwise. Same day connection will result in the assessment of an additional fee.

§ 12-2-9 TERMINATION UNDER CERTAIN CONDITIONS.

(A) The City may terminate sewer service under any of the following conditions:

(1) To prevent fraud or abuse, or unauthorized use of sewer services;

(2) For the violation of this chapter or of any Federal, State, or local laws applicable to water service or environmental issues;

(3) Legal process;

(4) Direction of public authorities;

(5) Local emergency requiring emergency measures, or for emergency repairs;

(6) Tampering with meter or connection by the customer or someone on their behalf;

(7) Nonpayment of any utility fees, charges or deposit(s); or

(8) False information provided in the application or in the application process.

(B) The City will make reasonable efforts to notify customers prior to the discontinuance of services due to emergency circumstances. In the event the City has determined it necessary to terminate services for reasons listed in subsections (A)(1), (2), (5) and (6) of this section, the City is authorized to terminate services without prior notice to the customer. Prior to terminating service for reasons listed in subsections (A)(3), (4), (7) and (8) of this section, the City will give written notice to the customer. All customers will be provided an opportunity for a hearing with the City Manager to address any complaints that may arise with the discontinuance of service. All hearings will be held in compliance with this chapter.

Article 12-3
DEPARTMENT AND CUSTOMER RESPONSIBILITIES

Section

12-3-1 City responsibilities.
12-3-2 Property owner responsibilities.
12-3-3 Interference with city staff.
12-3-4 Deposits and discharges.
12-3-5 Private sewage disposal systems.
12-3-6 Tampering.
12-3-7 Permit required.
12-3-8 Permit application.
12-3-9 Inspection and approval by city.

§ 12-3-1 CITY RESPONSIBILITIES.

(A) The City shall not be responsible for the installation, repair, maintenance or inspection of any Sewer Service Line outside of City right-of-way or City-owned easement.

(B) The City shall not be responsible for the negligence of third persons or forces beyond the control of the City resulting in any interruption of service or damage to the property of the customer.

(C) The City may refuse service to any prospective customer when the capacity of the sewer system will not permit additional loads being placed thereon.

§ 12-3-2 PROPERTY OWNER RESPONSIBILITIES.

(A) Building or house sewer service line on any property shall be arranged to provide service to one lot. If additional service is required, it may be considered as a separate and individual account.

(B) Property owners must obtain written consent from the City prior to any modifications to a sewer service line.

(C) The property owner shall be responsible for the installation, repair, maintenance and inspection of all Sewer Service Lines within the owner's property. Sewer Service line(s), and apparatus shall be installed and maintained by the property owner, at the property owner's expense, in a safe and efficient manner and in accordance with the Federal, State and local law, rules, regulations and building standards. The property owner's failure to comply with Federal, State and local law, rules, regulations, and building standards relieves the City of any and all liability from injury or damage proximately caused therefrom.

(D) The property owner and customer shall safeguard the City's property placed on the property owner's premises and shall permit access to it only by the authorized representatives of the City.

(E) In the event that any loss or damage to the property of the City or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the property owner and/or customer, his or her agents or employees, the cost of necessary repairs or replacements shall be paid by the property owner and/or customer to the City and any liability otherwise resulting shall be assumed by the property owner and/or customer. The amount of such loss or damage or the cost of repairs may be added to the customer's bill, and, if not paid, service may be terminated after providing notice and an opportunity for a hearing as provided herein.

(F) When service to a property owner requires the laying of any City sewer lines or the installation of any other City property on, under, across or over the property owner's property, the property owner shall grant to the City an easement, right-of-way or license for such installation.

(G) The residential account holder shall be responsible for first ascertaining the approximate location of damaged or broken section of piping serving the property. If the damaged or broken section is in the public right-of-way, the property owner shall contact the Water Services Department. The Department will verify the damaged or broken location via video inspection. If the damaged or broken section is verified to be in the public right-of-way and is sufficient in nature to require repair, the Department shall initiate appropriate repair or replacement. When the broken section is on the private property, it will be the property owner's responsibility to repair the broken section. Disputes as to location, extent of damage or the method of repair or replacement of the damaged or broken section shall be resolved at the sole discretion of the Water Services Director.

§ 12-3-3 INTERFERENCE WITH CITY STAFF.

It is unlawful for any person:

(A) To deny reasonable access or interfere in any way with City staff in the discharge of any of their official duties, which include but are not limited to tapping of any sewer pipe, main or lateral belonging to the City or in the laying or connecting of pipe, main or lateral or in operation, maintenance or inspection of any part of the sanitary sewer system;

(B) To dig up, or cause to be dug up, any street or alley in the City for the purpose of connection with the sewer system of the City without first obtaining a permit from the City;

(C) To dig up any portion of any street or alley of the City for the purpose of connecting with the sewer system of the City to fail or neglect to place the street or alley in its original condition under the supervision of the authorized officers of the City and as required by the City.

§ 12-3-4 DEPOSITS AND DISCHARGES.

(A) It is unlawful for any person:

(1) To deposit or discharge, or permit to be deposited or discharged to any natural outlet or upon public or private property within the City or the sanitary sewer system or in any area under the jurisdiction of the City any sewage, industrial waste, hazardous waste, effluent, fats, oils, grease, medical waste, paint, animal excrement or any other prohibited discharge identified in Chapter 12A, unless otherwise authorized by law.

(2) To remove or deposit sewage or any other substance into a manhole installed in the sanitary sewer system, without prior written approval from the Director.

(B) A recreational vehicle sanitary dumping station may be constructed or maintained with prior written authorization of the Director and the installation of a City approved meter capable of recording and measuring the flow of sewage discharged into the sanitary sewer system. Such meters shall be subject to all requirements set forth in this Chapter and Chapter 12A and will be assessed a rate to be set by resolution of Council.

§ 12-3-5 PRIVATE SEWAGE DISPOSAL SYSTEMS.

(A) *Compliance with Article.* Except as provided in this article, it is unlawful to construct or maintain within the City any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage without the prior written authorization of the City.

(B) *When Permitted; Sanitation.* Where a sanitary sewer system is not available within the City or in any area under the jurisdiction of the City, the sewer service line shall be connected to a private sewage disposal system which complies with the regulations of the Arizona Department of Environmental Quality, Maricopa County Department of Environmental Services and the City. Such private sewage disposal system shall be constructed, maintained and operated at all times in a sanitary manner and as required by the Arizona Department of Environmental Quality, Maricopa County Department of Environmental Services and the City. Before issuance of a building permit for any new building that is to be served by a private sewage system, the applicant must demonstrate to the City that the following requirements have been met:

(1) The private sewage disposal system has been designed to ensure a sanitary sewer service line stub is in a location sufficient to facilitate future connection to a sanitary sewer system, as determined by the City Engineer.

(2) The property owner(s) shall sign and record with the Maricopa County Recorder's Office an affidavit of disclosure stating that they agree to suspend use of the private sewage disposal system and connect to a sanitary sewer system when it is available to the property in accordance with the time frames for compliance specified below, whichever one occurs first:

(a) Within five years from the date that the sanitary sewer line became available to the property; or

(b) Immediately, or as soon as practicable thereafter as determined by the City Engineer, upon evidence of failure of the existing private sewage disposal system; or

(c) Within 30 days of a change in ownership of the property.

(C) *Discontinuance Required.* At such time that a sanitary sewer line becomes available to any property served by a private sewage disposal system, the landowner(s) shall be required to discontinue use of the private sewage disposal system and connect to the sanitary sewer system in accordance with the time frames for compliance specified below, provided notice of such time frames for compliance has been recorded by the City with Maricopa County Recorder's Office on the property to be served at the time the sanitary sewer line became available to the property or the property owner(s) affidavit of disclosure has been recorded with the Maricopa County Recorder's Office on the property regarding such time frames for compliance:

(1) Within five years from the date that the sanitary sewer line became available; or

(2) Immediately, or as soon as practicable thereafter as determined by the City Engineer, upon evidence of failure of the existing private sewage disposal system; or

(3) Within 30 days of a change in ownership of the property, whichever occurs first.

(D) *Discontinuance Standards.* Whenever the use of a private sewer system is discontinued due to a voluntary or mandatory connection to the sanitary sewer system in accordance with the provisions of this chapter, the property owner shall fill any septic tanks, cesspools and similar private sewage facilities with suitable material in accordance with State and county regulations within 90 days after discontinuance.

(E) *Appeals.* Any person aggrieved by the strict application of this section shall be provided an opportunity for an appeal hearing with the City Manager. The City Manager shall have the authority to temporarily or permanently waive, or conditionally waive, the provisions of this section. All hearings shall be held in accordance with this chapter.

(F) *Penalty.* Any person found guilty of violating any provision of this section shall be assessed a penalty as provided for by Article 1-8.

§ 12-3-6 TAMPERING.

It is unlawful for any person to maliciously, willfully, negligently or knowingly:

(A) Bypass the sewer meter, without prior authorization from the City;

(B) Tamper with the sewer meter;

(C) Break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sanitary sewer system; or

(D) Connect with the sanitary sewer system directly or indirectly without prior authorization from the City.

§ 12-3-7 PERMIT REQUIRED.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.

§ 12-3-8 PERMIT APPLICATION.

Upon issuance of a required permit to any person, each and every permit issued shall be presented by the person to the City and application made for the building connection.

§ 12-3-9 INSPECTION AND APPROVAL BY CITY.

No Sewer Service Line will be connected to the building until it has been inspected and approved by the City.

Article 12-4
USE OF PUBLIC SEWERS

Section

12-4-1 Prohibited substances.
12-4-2 Interceptors required.

§ 12-4-1 PROHIBITED SUBSTANCES.

(A) No person shall discharge or cause to be discharged into any sewer which directly or indirectly connects to the Publicly Owned Treatment Works any substance which would be in violation of Chapter 12A.

§ 12-4-2 INTERCEPTORS REQUIRED.

(A) Grease, oil and sand interceptors are required as provided in Chapter 12A.

Article 12-5
EXTENSION OF SERVICE

Section

12-5-1 Outside city limits.
12-5-2 Approval required.
12-5-3 In subdivisions.

§ 12-5-1 OUTSIDE CITY LIMITS.

Use of the City sewer system will not be granted to persons outside the limits of the City who are not supplied with City water without a prior written agreement with the City.

§ 12-5-2 APPROVAL REQUIRED.

No public sewer extensions shall be made until the plans and specifications are approved by the authorized officers of the City.

§ 12-5-3 IN SUBDIVISIONS.

In new subdivisions where public sewer extensions are authorized by the City and constructed at the subdivider's expense, the City may authorize the subdivider's agent, if so desired, to install building connections with wyes and connect the sewer service line under the following provisions:

(A) The construction of sewer service lines shall be in compliance with the requirements of the City.

(B) Before any sewer construction commences, permits must be obtained by the subdivider or agent, from the City.

Article 12-6
SECTIONS AS PART OF CONTRACT

Section

12-6-1 Sections as part of contract.

§ 12-6-1 SECTIONS AS PART OF CONTRACT.

All sections contained in this chapter shall be considered a part of the contract of every resident of the City taking sewer service from the City, and such resident taking sewer service shall be considered as having expressly consented to be bound thereby. Customers outside the City limits shall, upon application for sewer service, comply with all requirements for sewer service as set forth in this chapter.

Article 12-7
ENFORCEMENT

Section

12-7-1 Enforcement, penalties.
12-7-2 Liens.

§ 12-7-1 ENFORCEMENT, PENALTIES.

(A) *Enforcement Official.* Law Enforcement, Code Enforcement, and the Director shall have the authority and responsibility for enforcement and compliance with this chapter.

(B) No oversight or dereliction of duties by any person assigned to enforce the provisions of this chapter shall legalize, allow, or excuse a violation of this chapter.

(C) All violations of this chapter are subject to criminal and civil penalties and enforcement provisions, including abatement, collections, and liens, pursuant to Article 1-8 and Article 18-1.

(D) If a person pleads responsible or is found to be responsible for a civil violation of Section 12-2-1 the court shall impose a civil sanction in accordance with the following guidelines: for a first time offense, the civil sanction shall be in an amount not less than $500 nor more than $750; for a second offense, the civil sanction shall be in a sum not less than $750 nor more than $1,000, and for a third offense or subsequent offense, the civil sanction shall be in an amount not less than $1,000. Any violation of Section 12-2-1 may be dismissed or the fines may be reduced or suspended when proof is filed and accepted by the court which shows that the property owner or tenant has signed up for utility service with the City and paid, or reached an agreement with the City for a payment plan, for the outstanding balance due on the account.

(E) Each day any violation of any provision of this code or any ordinance incorporated herein, or the failure to perform any act or duty required by this code or ordinance incorporated herein, continues shall constitute a separate offense.

(F) The City may obtain an administrative warrant from the Goodyear Municipal Court authorizing the City to enter the property located in the City at reasonable times to inspect the property to ensure compliance with the provisions of this chapter or when there is probable cause to believe a condition, object, activity or circumstance exists on the property that justifies the inspection.

§ 12-7-2 LIENS.

(A) In the event a property owner fails to pay any sum due the City under the provisions of this chapter, for which the property owner is responsible, the City may record a lien on the real property to which the service is and/or has been provided for the amount of any unpaid amount due. Any and all unpaid amounts due may result in a lien placed against the property from the date of recording in the Maricopa County Recorder's Office until the fees and all costs are paid. The lien is subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien assessed pursuant to this section shall be made on a judgment of foreclosure and order of sale in accordance with the rules and procedures applicable thereto. The City shall be entitled to recover its reasonable attorney's fees and costs incurred in the foreclosure of any such lien.

(B) The City will provide the property owner with written notice of intent to file the lien at least 30 days prior to the filing thereof, which shall include an advisement of the opportunity for a hearing with the City Manager. If the sum due for which lien is claimed is paid prior to the expiration of the 30 day period, no such lien shall be filed for the amount paid.

(C) Notice of intent to file the lien shall be given by personal service or certified mail, to the property owner, at the last known address, or to the address to which the tax bill for the property was last mailed. If the owner does not reside on the property, the notice shall be sent to the last known address. Upon payment of the lien, the City Manager is authorized to release the lien on behalf of the City.

Article 12-8
EFFLUENT SERVICE

Section

12-8-1 Distribution of effluent.
12-8-2 Effluent rates and fees.
12-8-3 Effluent service charges; Termination of service.

§ 12-8-1 DISTRIBUTION OF EFFLUENT.

(A) Through a contractual agreement with the City, the City may provide effluent to customers for non-potable use, if such use and contract are approved by the City Council and comply with Federal, State and local law, rules and regulations.

(B) The City shall have no obligation to enter into a contract to provide effluent or install distribution lines.

§ 12-8-2 EFFLUENT RATES AND FEES.

The Council by way of resolution shall, from time to time, establish rates to be charged for the use of effluent and the fee for connection to the effluent delivery line.

§ 12-8-3 EFFLUENT SERVICE CHARGES; TERMINATION OF SERVICE.

(A) Charges for effluent service will be billed monthly and shall be due and payable on the date indicated on the billing.

(B) In the event of billing delinquency for effluent service, the City shall have the same rights to collect delinquent fees, to terminate service and to collect fees for discontinuance and reestablishment of service as applicable to water service accounts.

(C) The procedures for application for service and the making of a deposit, which are applicable in the case of establishing water service, shall be applicable to effluent service. This does apply to effluent hydrant meters.

(D) The City shall have the right to terminate effluent service in the event effluent furnished by the City is used for any unlawful purpose; provided, however, that the user shall have the right to appeal termination of service in the same manner as provided for an appeal in Chapter 10.

ORDINANCE NO. 2023-1583

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 12 (SEWERS) OF THE GOODYEAR CITY CODE TO AMEND AND REPLACE CHAPTER 12 IN ITS ENTIRETY; PROVIDING FOR CORRECTIONS; SEVERABILITY; PENALTIES AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and Council of the City of Goodyear, have determined that the public health, safety and welfare of the City of Goodyear and its citizens require certain amendments and additions to be made to Chapter 12 (Sewers) of the Goodyear City Code; and

WHEREAS, the current City Code provisions place the responsibility for sewer service line repairs from the dwelling unit to the sewer main connection on the Owner, which may create a negative financial impact and inequity; and

WHEREAS, the Mayor and Council desire equity and fairness in the responsibility of sewer service line repairs, to be consistent with water service line repair, and provide consistent and reliable utility services to residents; and

WHEREAS, the definition of Service Line will be revised to ensure Owners are only responsible for repairs of service lines on their private property; and

WHEREAS, the Mayor and Council of the city of Goodyear, Arizona believe it is in the best interest of the City and its citizens to amend and replace Chapter 12 (Sewers) of the Goodyear City Code to provide for additional conditions, responsibilities and regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. AMENDING AND REPLACING CHAPTER 12 (SEWERS) OF THE GOODYEAR CITY CODE

All Articles, Sections, and Subsections of Goodyear City Code, Chapter 12-Sewers are hereby amended and Chapter 12 shall be replaced in its entirety, as set forth in that certain document titled, “Amending Chapter 12 (Sewers) of the Goodyear City Code,” which is attached as Exhibit A to Resolution No. 2023-2337 and is declared a public record, three copies of which are on file with the City Clerk of the city of Goodyear and which is referred to, adopted, and made part hereof as if fully set forth in the Ordinance.

SECTION 2. CORRECTIONS

The 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 3. 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 4. PENALTIES

The penalty for violation of Section 12-3-5 (F) provides as follows:

§ 12-3-5 PRIVATE SEWAGE DISPOSAL SYSTEMS.

(F) *Penalty.* Any person found guilty of violating any provision of this section shall be assessed a penalty as provided for by Article 1-8.

The enforcement and penalties provided in Section 12-7-1 are as follows:

§ 12-7-1 ENFORCEMENT, PENALTIES.

(A) *Enforcement Official.* Law Enforcement, Code Enforcement, and the Director shall have the authority and responsibility for enforcement and compliance with this chapter.

(B) No oversight or dereliction of duties by any person assigned to enforce the provisions of this chapter shall legalize, allow, or excuse a violation of this chapter.

(C) All violations of this chapter are subject to criminal and civil penalties and enforcement provisions, including abatement, collections, and liens, pursuant to Article 1-8 and Article 18-1.

(D) If a person pleads responsible or is found to be responsible for a civil violation of Section 12-2-1 the court shall impose a civil sanction in accordance with the following guidelines: for a first time offense, the civil sanction shall be in an amount not less than $500 nor more than $750; for a second offense, the civil sanction shall be in a sum not less than $750 nor more than $1,000, and for a third offense or subsequent offense, the civil sanction shall be in an amount not less than $1,000. Any violation of Section 12-2-1 may be dismissed or the fines may be reduced or suspended when proof is filed and accepted by the court which shows that the property owner or tenant has signed up for utility service with the City and paid, or reached an agreement with the City for a payment plan, for the outstanding balance due on the account.

(E) Each day any violation of any provision of this code or any ordinance incorporated herein, or the failure to perform any act or duty required by this code or ordinance incorporated herein, continues shall constitute a separate offense.

(F) The City may obtain an administrative warrant from the Goodyear Municipal Court authorizing the City to enter the property located in the City at reasonable times to inspect the property to ensure compliance with the provisions of this chapter or when there is probable cause to believe a condition, object, activity or circumstance exists on the property that justifies the inspection.

Violations of any provision of Chapter 12 are also subject to criminal and civil penalties available as provided in Article 1-8 and Chapter 18 of the Goodyear City Code.

SECTION 5. EFFECTIVE DATE

This ordinance shall become effective as prescribed by law. The provisions of any ordinance, regulation or requirement of the City of Goodyear being amended by this Ordinance shall remain in full force and effect until the effective date of this Ordinance.

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:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

Chapter 12
SEWERS

Article

12-1 Definitions
12-2 Service and Billing
12-3 Department and ~~Consumer~~Customer Responsibilities
12-4 Use of Public Sewers
12-5 Extension of Service
12-6 Sections As Part of Contract
12-7 Enforcement
12-8 Effluent Service

Article 12-1
DEFINITIONS

Section

12-1-1 Definitions.

§ 12-1-1 DEFINITIONS.

For the purpose of this chapter, the following definitions, (and their plural versions), and those set forth in Chapter 12A shall apply unless the context clearly indicates or requires a different meaning:

~~***AVAILABLE*** means a public sanitary sewer that is within 100 feet of any part of the property is considered an available public sanitary sewer to that property.~~

CESSPOOL means a covered excavation in the ground receiving sewage or other organic wastes from a drainage system that is designed to retain the organic matter and solids, permitting the liquids to seep into the soil cavities.

CITY MANAGER means the City of Goodyear City Manager or his/her designee.

CITY SEWER SERVICE AREA means any ~~property receiving water service from the City or any private provider or from private wells shall establish a sewer account~~ area where sewer infrastructure is present.

COMMERCIAL ACCOUNT means an account for a profit or nonprofit business, and multi-family residential accounts.

CUSTOMER means the property owner or any person, renter, lessee, occupant, government agency, nonprofit or entity responsible for payment of utility service(s) provided by the City.

DIRECTOR means the person or his/her designee authorized by the City Manager to administer, implement and enforce the provisions of this chapter.

EFFLUENT OR RECLAIMED WATER means non-potable water derived from processing sewage and which is used for certain landscape watering purposes, industrial use or other purposes.

INHABIT means to live or dwell in any structure required to have a utility account on a temporary or permanent basis.

NATURAL OUTLET means any outlet into a watercourse, ditch or other body of surface or ground water.

~~***MULTI-FAMILY RESIDENTIAL ACCOUNT*** means an account for a multi-family dwelling unit at a residential property comprised of two or more dwelling units, including duplexes, apartments and condominiums, which have requested and receive utility service(s) from the City.~~

OCCUPANT ~~***(OCCUPY)***~~ means a person, persons or legal entity that, through rights of ownership, tenancy or other legal means has possession or the use of the subject real property.

PERSON means any enterprise, individual, partnership, co-partnership, firm, company, corporation, association, trust, estate, governmental entity, municipality, State or Federal agency or any other legal entity; or their legal representatives, agents, assigns or employee thereof.

PRIVATE SEWAGE DISPOSAL SYSTEM means an on-site wastewater treatment facility, as defined in 18 AAC 9, Article 3, Rule R18-9-101, that consists of a conventional septic tank system or alternative, engineered system installed at a site to treat and dispose of wastewater, predominantly of human origin, generated at the site.

PRIVY means a structure not connected to a plumbing system and which is used by persons for the deposition of human body waste.

PROPERTY OWNER means any person, with reference to real property, that holds or has any of the following: ~~(A)~~ fee title, ~~(B)~~ equitable title, ~~(C)~~ any possessory right, ~~(D)~~ the right to occupy the premises, or ~~(E)~~ the right to lease, sublease or authorize another to occupy the premises for real property located in the City of Goodyear. A person is presumed to be a property owner if identified as such on any of the following: a deed, contract, lease agreement, sales agreement, the Maricopa County Recorder's Office, Maricopa County Assessor's Office and/or any other public record system wherein these records may be located.

RECREATIONAL VEHICLE SANITARY DUMPING STATION means a facility intended to receive the discharge of Sewage from any holding tank or similar device installed in any vehicle or trailer equipped with living space and amenities found in a home, and having a means of discharging the contents into the Sanitary Sewer System that has been approved as provided in Section 12-3-4(C).

SANITARY SEWER SYSTEM means a City owned sewer system that carries Sewage from residential, commercial and industrial facilities and to which storm, surface and ground waters are not intentionally admitted.

SEWER SERVICE LINE means the pipe line for the delivery of Sewage from a Sewer Main to a structure.

SEPTIC TANK means a tank that receives and partially treats sewage through processes of sedimentation, flotation and bacterial action to separate solids from the liquid in the sewage, and which discharges the liquid to a soil absorption system.

SEWAGE means untreated wastes from toilets, baths, sinks, lavatories, laundries, and other plumbing fixtures ~~from places of human occupancy~~ and untreated wastes from a Recreational Vehicle Sanitary Dumping Station.

SEWER MAIN means a pipeline within City owned right-of-way or easement that is designed to accept Sewage from multiple sources and ~~properties~~ for delivery to a City sewage treatment facility**.**

~~***SEWAGE***~~***SEWER METER OR METER*** means a device used to measure the quantity or rate of sewage flowing into the sanitary sewer system.

SEWER SYSTEM ("SEWER") means the complete sanitary sewer system, including ~~sanitary~~ sewer mains, manholes, Sewer Service Lines, pipelines or conduits, pumping stations, forced mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting Sewage to an ultimate point for treatment or disposal.

SINGLE FAMILY RESIDENCE means one single family detached dwelling. ~~on one lot.~~

SINGLE FAMILY RESIDENTIAL ACCOUNT means an account for a single family detached dwelling which receives utility services from the City.

STRUCTURE means any building for which Sewer Service is provided.

UTILITY ACCOUNT means all accounts with the City of Goodyear for sanitation, sewer and/or water when provided by the City.

UTILITY SERVICE~~(S)~~ means sewer, sanitation and/or water service provided by or on behalf of the City of Goodyear.

Article 12-2
SERVICE AND BILLING

Section

12-2-1 Connection required.

12-2-2 Application for service.

12-2-3 Grounds for rejection of application.
12-2-4 Security deposit.
12-2-5 Sanitary sewer system charges.
12-2-6 Customer service charges and payment.
12-2-7 Discontinuance of service.
12-2-8 Notice of termination of service.
12-2-9 Termination under certain conditions.

§ 12-2-1 CONNECTION REQUIRED.

(A) *Connection Required.* All persons owning real property located within the City's Sewer Service Area upon which any building, structure, trailer or house is and which can be served by the sanitary sewer system shall be connected to the sanitary sewer system of the City or, if the sanitary sewer system is not available to said real property, to a private sewer system as provided herein. Service will be considered available when a sanitary sewer system sewer main is located within 100 feet of any part of the property, unless determined otherwise by the City Manager or designee.

(B) All persons in the City must sign up and pay monthly for sewer services for properties located within the City of Goodyear at the time their ~~residence~~structure is purchased, owned, leased, used or occupied, whichever occurs first, when such services are provided by the City or when the properties are physically connected to the City's ~~of Goodyear~~ sewer system.

(C) All persons outside the City must sign up and pay monthly for sewer services at the time their residence is purchased, owned, leased, used or occupied, whichever occurs first, when the property is physically connected to the City's ~~of Goodyear~~ sewer system.

(D) All property owners shall provide the City with the names of all tenants occupying the property owner's property within 30 days of occupancy.

(E) Base fees and any charges for sewer service shall apply when there is active water service, even if a building is unoccupied.

(F) No person within the City shall be permitted to avoid or refuse to accept sanitary sewer service if available to be provided by the City. The failure of any person to accept sanitary sewer service shall not exempt that person from the payment of the charges for the service and any fine or penalty for noncompliance.

(G) *Failure to Subscribe.* Any person that is required to receive sanitary sewer service from the City who fails to activate a ~~sanitary sewer service~~utility account with the City as required in this section shall be subject to penalties, which include but are not limited to the total monthly fees they would have been assessed and an activation fee. This shall be in addition to any other fine or ~~penalties~~penalty provided in this chapter.

(H) It is unlawful for any property owner to allow any person to lease, rent or inhabit the property owner's property if that person leasing, renting, occupying or inhabiting the property owner's property does not maintain all utility services available and provided by the City.

(I) It is unlawful for any person to lease, rent or inhabit any property if that person does not maintain all utility services available and provided by the City.

(J) It is unlawful for any person to lease, rent, or inhabit any property if that person deposits or discharges or permits to be deposited or discharged any liquid, substance or sewage into the sanitary sewer system connected to that property if that person does not maintain a utility account with the City for sewer services when such services are provided by the City.

(K) For purposes of this section, it is presumed that any person who leases, rents, or inhabits any property and has water service is depositing or discharging substances or sewage into the sanitary sewer system connected to that property.

(L) For purposes of this section, maintain a utility account means to open and keep open an active account with the City for all utility services available and provided by the City and to make all payments when due on that account.

§ 12-2-2 APPLICATION FOR SERVICE.

(A) *Application for Sewer Service.* Service applications are required of all persons requesting activation of any utility service(s). Application information must be submitted for each service address. An application must also be submitted when requesting any transfer of service. An activation fee will be charged for the activation of any utility service. The activation fee will be due at the time an application is submitted. No more than one activation fee will be required when a person is signing up for multiple utility services with the City at one location.

(B) *Required Information.* Applicants shall provide the following information when activating an account.

(1) *Single Family Residential Accounts.*

(a) Legal names of all responsible parties, entity or individual, must include all persons identified on the rental or lease agreement;

(b) Social security number and/or Federal tax identification number for commercial entities;

(c) Service address;

(d) Mailing address, if different;

(e) If property owner, provide proof of ownership;

(f) If tenant, provide landlord's name and address and copy of occupancy agreement (rental or lease agreement);

(g) If agent, provide proof of agency;

~~(h) Applicant's employer's name, address and phone number;~~

~~(i)~~(h) Requested start date;

~~(j)~~(i) A photocopy of a valid driver's license/identification card or other official government identification; and

~~(k)~~(j) Any other information deemed relevant by the Director.

(2) *Commercial ~~and Multi-Family Residential~~ Accounts.*

(a) Legal name(s) of all responsible parties/entities.

(b) Federal tax identification number and/or social security number;

(c) Service address;

(d) Mailing address, if different;

(e) Name and address of property owner(s).

(f) If property owner, provide proof of ownership.

(g) If tenant, provide:

1. Landlord's name and address and copy of rental or lease agreement.

2. Names of all persons identified on the rental or lease agreement;

(h) If agent, provide proof of agency;

(i) Requested start date;

(j) A photocopy of a valid driver's license/identification card, or other official government identification; and

(k) Any other information deemed relevant by the Director.

(C) All applications for any and all utility service(s) submitted by any person or entity shall be signed by the person who will be responsible for payment of the utility service(s) to be provided by the City, or a person legally authorized to act on their behalf. When submitting an application electronically, the named applicant(s) on the application will be deemed to have signed the application.

(D) It is the responsibility of the customer to ensure that the customer's contact and billing information on file with the City remains current at all times.

§ 12-2-3 GROUNDS FOR REJECTION OF APPLICATION.

The City reserves, at all times, the right to reject an application or terminate any utility service should any person provide false or misleading information on their application; fails or refuses to provide all information requested on the application; sewer services are not available to the property; or until the applicant requesting service pays in full any and all outstanding utility balance(s) for all utility accounts of the named applicant(s).

§ 12-2-4 SECURITY DEPOSIT.

(A) *Security Deposit.* A refundable security deposit, the amount of which shall be established by resolution of the Council, shall be charged for the activation of sewer services. The deposit may be paid in two monthly installments at the discretion of the ~~City Manager~~Director. Upon receipt of a written request from the customer, the ~~City Manager~~Director may waive the deposit required under this section if during the preceding 18 months the applicant's payment history with any public utility or government entity evidences that the applicant has timely paid their bills for 12 consecutive months or for other reasons that protect the City's interests. All deposits shall be retained by the City as security for payment of future utility service charges until all utility services are terminated or discontinued and the account is closed with the outstanding balance on all utility accounts paid in full. The customer's deposit may be returned to the customer if there have been no late utility payments during the prior 12 months on the customer's account.

(B) In the event a customer's deposit has been refunded or waived as herein provided, the ~~Finance Customer Service Supervisor~~Director may require a new deposit as a condition of continued service in the event the customer fails to pay the charges required under Chapter 10, 12 or 14, when each bill is due and payable for any three billing periods within the prior 12 month period. The three billing periods need not be consecutive.

(C) No more than one deposit shall be required and retained when multiple services are received on the same account.

(D) *Owner Guarantee.* A property owner may pay the deposit required for utility services on behalf of a tenant, or the deposit may be waived on behalf of a tenant, if the property owner meets the waiver requirements set forth in subsection (A) of this section, and if, in either situation, the property owner agrees to be financially responsible for the payment of any and all unpaid amounts due for utility services provided to the tenant and the tenant consents to the City's disclosure of the tenant's utility account information to the property owner.

§ 12-2-5 SANITARY SEWER SYSTEM CHARGES.

(A) Charges for sanitary sewer service will include a monthly wastewater base fee plus a volume charge for all City sewer customers.

(1) The monthly wastewater base fee shall be set by resolution of Council and volume rates.

(2) The monthly wastewater volume charge shall be determined as follows:

(a) *Single-Family Residential Accounts.* The volume of wastewater contributed by single-family residential accounts shall be set at the average monthly water billed during the immediately preceding months of January, February and March. Billing adjustments based on changes in usage shall be implemented in May of each year. If the ~~Finance~~ Director determines that adequate meter information is not available for billing a single-family residential account, then the account will be charged an average monthly billing for that user class;

(b) *Commercial ~~and Multi-Family Residential~~ Accounts.* The volume of wastewater contributed by commercial and multi-family residential accounts shall be set at 80% of monthly water billing. If the Finance Director determines that adequate meter information is not available for billing a commercial or multi-family residential account, then the account will be charged an average monthly billing for that user class;

(c) *Direct Metering.* When a sewage meter has been installed, the sewer volume charges shall be calculated based on total volume discharged into the sanitary sewer system during the monthly billing cycle.

(B) Rates for sanitary sewer service shall be established by resolution of Council and Council shall provide different rates based upon whether the service location is within the City limits, outside the City limits but within the incorporated limits of another municipality, or outside the City limits and outside the incorporated limits of another municipality.

§ 12-2-6 CUSTOMER SERVICE CHARGES AND PAYMENT.

(A) The customer shall be required to pay monthly sewer service fees and additional fees which may include but are not limited to security deposits, account activation fees, field visit fees, non-sufficient funds fees, delinquent account fees, late fees, interest, collection fees or such other fees as authorized by City Code or resolution. All such fees shall be established by Council by way of resolution. The amount of the monthly service fee shall be based on the ~~number and~~ size of the water meter(s) installed on the property and approved by the City. For any property without a City approved water meter, the monthly service charge shall be based on the water meter size required by the City. Any interruption in physical occupancy, whether temporary or permanent, of the property served by the connection for which said service charge is made shall not cause an abatement or termination of such monthly sewer service charge.

~~(B) Rates may differ depending upon use, occupancy or location. Unless otherwise stated, service provided outside the City limits will be charged a rate of one and one half times the rate for customers inside the corporate limits of the City.~~

~~(C) The Council shall regulate and change the rates and fees as deemed appropriate by resolution of Council.~~

~~(D)~~(B) *Billing, Payment, Delinquency and Discontinuance of Service.* All fee and service charges are due and payable when rendered. Payment must be received by the due date identified on the bill. If the total amount of the bill is not paid by the due date, a notice of delinquency and intent to disconnect service will be mailed to the customer indicating the scheduled disconnect date. If the total amount due on the bill is not paid prior to the scheduled disconnect date, the notice of delinquency and intent to disconnect having been given, service will be disconnected.

~~(E)~~(C) *Payment Plan.* The customer may enter into a payment plan agreement with the ~~Finance Customer Service Supervisor~~Director for the payment of any delinquent amount. Failure to comply with the payment plan agreement will result in the imposition of fees and penalties relating back to the original date of the outstanding debt and may result in the imposition of additional fees and costs as provided by the City Code and discontinuance of utility service.

~~(F)~~(D) *Hearing Provided.* All customers that dispute the account balance, or termination of service for nonpayment of amounts due, may submit an appeal in writing to the City Manager within 14 calendar days after the notice has been mailed, or emailed, to the customer's address on file with the ~~Finance Department~~City. The written request must set forth fully the facts supporting the appeal and relief requested. A separate appeal must be filed for each dispute. The City Manager shall issue a written decision within 14 working days from the City Manager's receipt of the appeal. The decision and order of the City Manager on such appeal shall be final and conclusive. The request for hearing shall not waive or stay the collection of any fees or charges that may be due.

§ 12-2-7 DISCONTINUANCE OF SERVICE.

(A) All requests for discontinuance of sewer service must be made in writing by the customer or their authorized agent and submitted to the City along with proof of termination of water service from the water provider, if applicable. When discontinuance of sewer service is requested from any premises all charges for services supplied to the premises shall be calculated and due on the date specified on the bill. The customer requesting discontinuance of service must provide a change of address with their request to discontinue service.

(B) Until the customer provides a written request to terminate to the City, the premises shall be deemed occupied, and services charges will continue to accrue.

(C) In the event that the customer shall have made a deposit and the deposit is still being retained, the deposit amount will be applied to the balance owing on all utility accounts with the City. Any credit remaining on the

account after the account has been paid will be mailed to the customer at the address provided in their request to discontinue service.

(D) Any outstanding balances due on the utility account(s) shall be collected as provided by law.

§ 12-2-8 NOTICE OF TERMINATION OF SERVICE.

(A) It is the policy of the City to terminate utility service to customers by reason of nonpayment of bills as provided herein.

(1) All bills are due and payable on the date set forth on the bill; and

(2) If the total amount of the outstanding bill is not paid by the due date, a service termination notice will be mailed to the customer indicating the scheduled disconnect date, and customer will be assessed an administrative penalty fee set by resolution of Council. If the total amount due is not paid by the due date on the disconnect notice, service will be disconnected for nonpayment and fees may be assessed; and additional fees and charges will be assessed and continue to accrue until the past due balance is paid in full.

(3) A customer that disputes the account balance, meter reading, or termination of service for nonpayment of amounts due, may submit an appeal in writing to the City Manager within 14 calendar days after the notice has been mailed, or emailed, to the customer's address on file with the Finance Department. The written request must set forth fully the facts supporting the appeal and the relief requested. A separate appeal must be filed for each dispute. The City Manager shall have authority to compromise disputed billings or establish payment arrangements. The City Manager shall issue a written decision within 14 working days from the City Manager's receipt of the appeal. The decision and order of the City Manager on such appeal shall be final and conclusive. Utility services will not be terminated until after the expiration of the appeal period and/or the decision from the City Manager.

(B) When it becomes necessary for the City to terminate utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, in addition to a reconnect fee in an amount to be set by resolution of Council. Reconnect of service will be completed during the next business day unless the customer requests otherwise. Same day connection will result in the assessment of an additional fee.

§ 12-2-9 TERMINATION UNDER CERTAIN CONDITIONS.

(A) The City may terminate sewer service under any of the following conditions:

(1) To prevent fraud or abuse, or unauthorized use of sewer services;

(2) For the violation of this chapter or of any Federal, State, or local laws applicable to water service or environmental issues;

(3) Legal process;

(4) Direction of public authorities;

(5) Local emergency requiring emergency measures, or for emergency repairs;

(6) Tampering with meter or connection by the customer or someone on their behalf;

(7) Nonpayment of any utility fees, charges or deposit(s); or

(8) False information provided in the application or in the application process.

(B) The City will make reasonable efforts to notify customers prior to the discontinuance of services due to emergency circumstances. In the event the City has determined it necessary to terminate services for reasons listed in subsections (A)(1), (2), (5) and (6) of this section, the City is authorized to terminate services without prior notice to the customer. Prior to terminating service for reasons listed in subsections (A)(3), (4), (7) and (8) of this section, the City will give written notice to the customer. All customers will be provided an opportunity for a hearing with the City Manager to address any complaints that may arise with the discontinuance of service. All hearings will be held in compliance with this chapter.

Article 12-3

DEPARTMENT AND ~~CONSUMER~~CUSTOMER RESPONSIBILITIES

Section

12-3-1 City responsibilities ~~and liabilities~~.
12-3-2 Property owner responsibilities.
12-3-3 Interference with city staff.
12-3-4 Deposits and discharges.
12-3-5 Private sewage disposal systems.
12-3-6 Tampering.
12-3-7 Permit required.
12-3-8 Permit application.
12-3-9 Inspection and approval by city.

§ 12-3-1 CITY RESPONSIBILITIES ~~AND LIABILITIES~~.

(A) The City shall not be responsible for the installation, repair, maintenance or inspection of any Sewer Service Line outside of City right-of-way or City-owned easement.

(B) The City shall not be responsible for the negligence of third persons or forces beyond the control of the City resulting in any interruption of service or damage to the property of the customer.

(C) The City may refuse service to any prospective customer when the capacity of the sewer system will not permit additional loads being placed thereon.

§ 12-3-2 PROPERTY OWNER RESPONSIBILITIES.

(A) Building or house sewer service line on any property shall be arranged to provide service to one lot. If additional service is required, it may be considered as a separate and individual account.

(B) Property owners must obtain written consent from the City prior to any modifications to a sewer service line.

(C) The property owner shall be responsible for the installation, repair, maintenance and inspection of all Sewer Service Lines within the owner's property. Sewer Service line(s), and apparatus shall be installed and maintained by the property owner, at the property owner's expense, in a safe and efficient manner and in accordance with the Federal, State and local law, rules, regulations and building standards. The property owner's failure to comply with Federal, State and local law, rules, regulations, and building standards relieves the City of any and all liability from injury or damage proximately caused therefrom.

(D) The property owner and customer shall safeguard the City's property placed on the property owner's premises and shall permit access to it only by the authorized representatives of the City.

(E) In the event that any loss or damage to the property of the City or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the property owner and/or customer, his or her agents or employees, the cost of necessary repairs or replacements shall be paid by the property owner and/or customer to the City and any liability otherwise resulting shall be assumed by the property owner and/or customer. The amount of such loss or damage or the cost of repairs may be added to the customer's bill, and, if not paid, service may be terminated after providing notice and an opportunity for a hearing as provided herein.

(F) When service to a property owner requires the laying of any City sewer lines or the installation of any other City property on, under, across or over the property owner's property, the property owner shall grant to the City an easement, right-of-way or license for such installation.

(G) The ~~single-family or duplex property owner~~residential account holder shall be responsible for first ascertaining the approximate location of damaged or broken section of piping serving the property. If the damaged or broken section is in the public right-of-way, the property owner shall contact the Public Works Department. The Department will verify the damaged or broken location via video inspection. If the damaged or broken section is verified to be in the public right-of-way and is sufficient in nature to require repair, the Department shall initiate appropriate repair or replacement. When the broken section is on the private property, it will be the property owner's responsibility to repair the broken section.

~~(1)~~ Disputes as to location, extent of damage or the method of repair or replacement of the damaged or broken section shall be resolved at the sole discretion of the ~~Water Services~~Public Works Director.

~~(2) A special account shall be created to fund such repairs and replacements with an annual allocation as approved by the City Council with the annual budget for each fiscal year. Requests for repairs or replacements shall be handled on a first-in basis. When the total funding in the account has been exhausted, all subsequent requests will be deferred until the City Council approved additional funding to the account.~~

§ 12-3-3 INTERFERENCE WITH CITY STAFF.

It is unlawful for any person:

(A) To deny reasonable access or interfere in any way with City staff in the discharge of any of their official duties, which include but are not limited to tapping of any sewer pipe, main or lateral belonging to the City or in the laying or connecting of pipe, main or lateral or in operation, maintenance or inspection of any part of the sanitary sewer system;

(B) To dig up, or cause to be dug up, any street or alley in the City for the purpose of connection with the sewer system of the City without first obtaining a permit from the City;

(C) ~~Authorized by the City t~~To dig up any portion of any street or alley of the City for the purpose of connecting with the sewer system of the City to fail or neglect to place the street or alley in its original condition under the supervision of the authorized officers of the City and as required by the City.

§ 12-3-4 DEPOSITS AND DISCHARGES.

(A) It is unlawful for any person:

(~~A~~1) ~~It is unlawful for any person t~~To deposit or discharge, or permit to be deposited or discharged to any natural outlet or upon public or private property within the City or the sanitary sewer system or in any area under the jurisdiction of the City any sewage, industrial waste, hazardous waste, effluent, fats, oils, grease, medical waste, paint, animal excrement or any other prohibited discharge identified in ~~Section~~Chapter 12A ~~2-1(C)(1)~~, unless otherwise authorized by law.

(~~B~~2) ~~It is unlawful t~~To remove or deposit sewage or any other substance into a manhole installed in the sanitary sewer system, without prior written approval from the Director.

(~~C~~B) A recreational vehicle sanitary dumping station may be constructed or maintained with prior written authorization of the Director and the installation of a City approved meter capable of recording and measuring the flow of sewage discharged into the sanitary sewer system. Such meters shall be subject to all requirements

set forth in this ~~c~~Chapter and Chapter ~~Article~~ 12A ~~-6~~ and will be assessed a rate to be set by resolution of Council.

§ 12-3-5 PRIVATE SEWAGE DISPOSAL SYSTEMS.

(A) *Compliance with Article.* Except as provided in this article, it is unlawful to construct or maintain within the City any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage without the prior written authorization of the City.

(B) *When Permitted; Sanitation.* Where a sanitary sewer system is not available within the City or in any area under the jurisdiction of the City, the ~~building~~ sewer service line shall be connected to a private sewage disposal system which complies with the regulations of the Arizona Department of Environmental Quality, Maricopa County Department of Environmental Services and the City. Such private sewage disposal system shall be constructed, maintained and operated at all times in a sanitary manner and as required by the Arizona Department of Environmental Quality, Maricopa County Department of Environmental Services and the City. Before issuance of a building permit for any new building that is to be served by a private sewage system, the applicant must demonstrate to the City that the following requirements have been met:

(1) The private sewage disposal system has been designed to ensure a sanitary sewer service line stub is in a location sufficient to facilitate future connection to a sanitary sewer system, as determined by the City Engineer.

(2) The property owner(s) shall sign and record with the Maricopa County Recorder's Office an affidavit of disclosure stating that they agree to suspend use of the private sewage disposal system and connect to a sanitary sewer system when it is available to the property in accordance with the time frames for compliance specified below, whichever one occurs first:

(a) Within five years from the date that the sanitary sewer line became available to the property; or

(b) Immediately, or as soon as practicable thereafter as determined by the City Engineer, upon evidence of failure of the existing private sewage disposal system; or

(c) Within 30 days of a change in ownership of the property.

(C) *Discontinuance Required.* At such time that a sanitary sewer line becomes available to any property served by a private sewage disposal system, the landowner(s) shall be required to discontinue use of the private sewage disposal system and connect to the sanitary sewer system in accordance with the time frames for compliance specified below, provided notice of such time frames for compliance has been recorded by the City with Maricopa County Recorder's Office on the property to be served at the time the sanitary sewer line became available to the property or the property owner(s) affidavit of disclosure has been recorded with the Maricopa County Recorder's Office on the property regarding such time frames for compliance:

(1) Within five years from the date that the sanitary sewer line became available; or

(2) Immediately, or as soon as practicable thereafter as determined by the City Engineer, upon evidence of failure of the existing private sewage disposal system; or

(3) Within 30 days of a change in ownership of the property, whichever occurs first.

(D) *Discontinuance Standards.* Whenever the use of a private sewer system is discontinued due to a voluntary or mandatory connection to the sanitary sewer system in accordance with the provisions of this chapter, the property owner shall fill any septic tanks, cesspools and similar private sewage facilities with suitable material in accordance with State and county regulations within 90 days after discontinuance.

(E) *Appeals.* Any person aggrieved by the strict application of this section shall be provided an opportunity for an appeal hearing with the City Manager. The City Manager shall have the authority to temporarily or permanently waive, or conditionally waive, the provisions of this section. All hearings shall be held in accordance with this chapter.

(F) *Penalty.* Any person found guilty of violating any provision of this section shall be assessed a penalty as provided for by Article 1-8.

§ 12-3-6 TAMPERING.

It is unlawful for any person to maliciously, willfully, negligently or knowingly:

(A) Bypass the sewer meter, without prior authorization from the City;

(B) Tamper with the sewer meter;

(C) Break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sanitary sewer system; or

(D) Connect with the sanitary sewer system directly or indirectly without prior authorization from the City.

§ 12-3-7 PERMIT REQUIRED.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.

§ 12-3-8 PERMIT APPLICATION.

Upon issuance of a required permit to any person, each and every permit issued shall be presented by the person to the City and application made for the building connection.

§ 12-3-9 INSPECTION AND APPROVAL BY CITY.

No Sewer Service Line will be connected to the building until it has been inspected and approved by the City.

Article 12-4
USE OF PUBLIC SEWERS

Section

12-4-1 Prohibited substances.
12-4-2 Interceptors required.

§ 12-4-1 PROHIBITED SUBSTANCES.

(A) No person shall discharge or cause to be discharged into any sewer which directly or indirectly connects to the Publicly Owned Treatment Works any substance which would be in violation of ~~Section~~Chapter 12A~~-2-1~~.

§ 12-4-2 INTERCEPTORS REQUIRED.

(A) Grease, oil and sand interceptors are required as provided in ~~Section~~Chapter 12A~~-3-2~~.

Article 12-5
EXTENSION OF SERVICE

Section

12-5-1 Outside city limits.
12-5-2 Approval required.
12-5-3 In subdivisions.

§ 12-5-1 OUTSIDE CITY LIMITS.

Use of the City sewer system will not be granted to persons outside the limits of the City who are not supplied with City water without a prior written agreement with the City.

§ 12-5-2 APPROVAL REQUIRED.

No public sewer extensions shall be made until the plans and specifications are approved by the authorized officers of the City.

§ 12-5-3 IN SUBDIVISIONS.

In new subdivisions where public sewer extensions are authorized by the City and constructed at the subdivider's expense, the City may authorize the subdivider's agent, if so desired, to install building connections with wyes and connect the ~~S~~sewer ~~S~~service ~~L~~line under the following provisions:

(A) The construction of ~~the public sewer,~~ ~~S~~sewer ~~S~~service ~~L~~lines shall be in compliance with the requirements of the City.

(B) Before any sewer construction commences, ~~plumbing~~ permits must be obtained by the subdivider or agent, from the City.

Article 12-6
SECTIONS AS PART OF CONTRACT

Section

12-6-1 Sections as part of contract.

§ 12-6-1 SECTIONS AS PART OF CONTRACT.

All sections contained in this chapter shall be considered a part of the contract of every resident of the City taking sewer service from the City, and such resident taking sewer service shall be considered as having expressly consented to be bound thereby. ~~Consumers~~Customers outside the City limits shall, upon application for sewer service, ~~be required to sign a statement agreeing to the~~comply with all requirements for sewer service as ~~sections~~ set forth in this chapter.

Article 12-7
ENFORCEMENT

Section

12-7-1 Enforcement, penalties.
12-7-2 Liens.

§ 12-7-1 ENFORCEMENT, PENALTIES.

(A) *Enforcement Official.* Law Enforcement, Code Enforcement, ~~Operation Supervisor—Wastewater Collection and the Wastewater Superintendent~~ and the Director shall have the authority and responsibility for enforcement and compliance with this chapter.

(B) No oversight or dereliction of duties by any person assigned to enforce the provisions of this chapter shall legalize, allow, or excuse a violation of this chapter.

(C) All violations of this chapter are subject to criminal and civil penalties and enforcement provisions, including abatement, collections, and liens, pursuant to Article 1-8 and Article 18-1.

(D) If a person pleads responsible or is found to be responsible for a civil violation of Section 12-2-1 the court shall impose a civil sanction in accordance with the following guidelines: for a first time offense, the civil sanction shall be in an amount not less than $500 nor more than $750; for a second offense, the civil sanction shall be in a sum not less than $750 nor more than $1,000, and for a third offense or subsequent offense, the civil sanction shall be in an amount not less than $1,000. Any violation of Section 12-2-1 may be dismissed or the fines may be reduced or suspended when proof is filed and accepted by the court which shows that the property owner or tenant has signed up for utility service with the City and paid, or reached an agreement with the City for a payment plan, for the outstanding balance due on the account.

(E) Each day any violation of any provision of this code or any ordinance incorporated herein, or the failure to perform any act or duty required by this code or ordinance incorporated herein, continues shall constitute a separate offense.

(F) The City may obtain an administrative warrant from the Goodyear Municipal Court authorizing the City to enter the property located in the City at reasonable times to inspect the property to ensure compliance with the provisions of this chapter or when there is probable cause to believe a condition, object, activity or circumstance exists on the property that justifies the inspection.

§ 12-7-2 LIENS.

(A) In the event a property owner fails to pay any sum due the City under the provisions of this chapter, for which the property owner is responsible, the City may record a lien on the real property to which the service is and/or has been provided for the amount of any unpaid amount due. Any and all unpaid amounts due may result in a lien placed against the property from the date of recording in the Maricopa County Recorder's Office until the fees and all costs are paid. The lien is subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien assessed pursuant to this section shall be made on a judgment of foreclosure and order of sale in accordance with the rules and procedures applicable thereto. The City shall be entitled to recover its reasonable attorney's fees and costs incurred in the foreclosure of any such lien.

(B) The City will provide the property owner with written notice of intent to file the lien at least 30 days prior to the filing thereof, which shall include an advisement of the opportunity for a hearing with the City Manager. If the sum due for which lien is claimed is paid prior to the expiration of the 30 day period, no such lien shall be filed for the amount paid.

(C) Notice of intent to file the lien shall be given by personal service or certified mail, to the property owner, at the last known address, or to the address to which the tax bill for the property was last mailed. If the owner does not reside on the property, the notice shall be sent to the last known address. Upon payment of the lien, the City Manager is authorized to release the lien on behalf of the City.

Article 12-8
EFFLUENT SERVICE

Section

12-8-1 Distribution of effluent.
12-8-2 Effluent rates and fees.
12-8-3 Effluent service charges; Termination of service.

§ 12-8-1 DISTRIBUTION OF EFFLUENT.

(A) Through a contractual agreement with the City, the City may provide effluent to customers for non-potable use, if such use and contract are approved by the City Council and comply with Federal, State and local law, rules and regulations.

(B) The City shall have no obligation to enter into a contract to provide effluent or install distribution lines.

§ 12-8-2 EFFLUENT RATES AND FEES.

The Council by way of resolution shall, from time to time, establish rates to be charged for the use of effluent and the fee for connection to the effluent delivery line.

§ 12-8-3 EFFLUENT SERVICE CHARGES; TERMINATION OF SERVICE.

(A) Charges for effluent service will be billed monthly and shall be due and payable on the date indicated on the billing.

(B) In the event of billing delinquency for effluent service, the City shall have the same rights to collect delinquent fees, to terminate service and to collect fees for discontinuance and reestablishment of service as applicable to water service accounts.

(C) The procedures for application for service and the making of a deposit, which are applicable in the case of establishing water service, shall be applicable to effluent service. This does apply to effluent hydrant meters.

(D) The City shall have the right to terminate effluent service in the event effluent furnished by the City is used for any unlawful purpose; provided, however, that the user shall have the right to appeal termination of service in the same manner as provided for an appeal in Chapter 10.

ITEM #: 4.
DATE: 09/25/2023
AI #:1594

CITY COUNCIL ACTION REPORT

SUBJECT: AMEND CHAPTER 12A (SEWER PRETREATMENT) OF THE GOODYEAR CITY CODE

STAFF PRESENTER(S): Todd Carpenter, Deputy Water Services Director; Barbara Chappell, Water Services Director

SUMMARY

Adoption of this Ordinance will amend Chapter 12A (Sewer Pretreatment) of the Goodyear City Code to update definitions, change permit classifications, and update the local limits related to the pretreatment program.

STRATEGIC PLAN ALIGNMENT



RECOMMENDATION

1. ADOPT RESOLUTION NO. 2023-2338 DECLARING A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND TITLED “AMENDING CHAPTER 12A (SEWER PRETREATMENT) OF THE GOODYEAR CITY CODE.”

2. ADOPT ORDINANCE NO. 2023-1584 AMENDING CHAPTER 12A (SEWER PRETREATMENT) OF THE GOODYEAR CITY CODE TO AMEND AND REPLACE IN ITS ENTIRETY; PROVIDING FOR CORRECTIONS; SEVERABILITY; PENALTIES AND AN EFFECTIVE DATE. (Todd Carpenter, Deputy Water Services Director and Barbara Chappell, Water Services Director)

FISCAL IMPACT

The amendment will allow for the creation of two new Wastewater Discharge Permit classifications to collect appropriate fees for the type of business. The fee will be used to fund inspections, sampling, and compliance with applicable Pretreatment Regulations. The amendment will also reduce the financial impact on certain Industrial Users that would otherwise be required to have a higher-class permit, reducing the required annual permit fee from $2,500 to either $800 or $550 depending on class 2 or 3 permits.

It is anticipated that new and revised permit fees will be brought back for council action by the end of the year.

BACKGROUND AND PREVIOUS ACTIONS

On March 03, 2014, Mayor and Council adopted Chapter 12A Sewer Use Ordinance 14-1290. On April 20, 2017, Goodyear received a Notice of Violation (NOV) from the Arizona Department of Environmental Quality (ADEQ) that resulted in a Consent Order for failure to fully implement the programmatic functions of the pretreatment program as provided in 40 CFR Part 403.8(f)(2). As a result of the consent order, the Water Services Department hired Pretreatment Consultant John E. Watson dba JW Environmental Consulting, LLC (JWEC) to implement the required functions for 40 CFR 403. Part of the contract with JWEC was to modify the current Chapter 12A Sewer Use Ordinance. On March 15, 2022, the City of Goodyear's 157th Ave Water Reclamation Facility received a new Arizona Pollutant Discharge Elimination System Permit (AZPDES) which required Goodyear to perform a Local Limits Evaluation. In anticipation of the new AZPDES Permit requirement, the Water Services Department hired Brown and Caldwell on January 13, 2022 to perform the Local Limits Evaluation. The evaluation was completed in late December 2022, and approved by ADEQ on June 27, 2023 to modify the Local Limits established in Chapter 12A. With the combined efforts from JWEC, Brown and Caldwell, Legal, and Pretreatment staff, the Water Services Department suggests the revisions and edits to the current Ordinance Chapter 12A be modified to include the Local Limits modification, EPA Streamlining Rule change, updated regulatory definitions and current Federal, State and Local Pretreatment Program Requirements.

STAFF ANALYSIS

As the current Ordinance is written, the financial burden to inspect unpermitted industries falls on the taxpayers and residents of Goodyear. The proposed modification will allow the inspections, sampling, and compliance to be fully funded by the industrial users that require the proposed permits, thus eliminating the financial impact on residents. The definitions, legal responsibilities, and enforcement response provide a consistent and clear direction for pretreatment staff to take with implementing the Pretreatment Program.

The advantage of these changes to the city is that the Pretreatment Program can be deployed in a consistent and reliable fashion to protect the Publicly Owned Treatment Works (POTW) from interference and or pass-through protecting our water resources now and in the future. The additional permit systems allow for oversight of those industries that currently have none, as well as reducing the oversight for those that require less.

Attachments

Resolution 2023-2338

Ordinance 2023-1584

REDLINED VERSION - Article 12A 2023

RESOLUTION NO. 2023-2338

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, DECLARING A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND TITLED "AMENDING CHAPTER 12A (SEWER PRETREATMENT) OF THE GOODYEAR CITY CODE."

Be it resolved by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, as follows:

SECTION 1. DECLARATION OF PUBLIC RECORDS

That a certain document titled "Amending Chapter 12A (Sewer Pretreatment) of the Goodyear City Code," a copy of which is attached hereto as Exhibit A, is hereby declared a public record.

SECTION 2. PURPOSE

The aforementioned documents are declared public records in connection with the adoption of Ordinance 2023-1584.

SECTION 3. COPIES FILED WITH THE CITY CLERK

Either three paper copies or one paper copy and one electronic copy maintained in compliance with section A.R.S 44-7041 of each of the aforementioned documents being declared public records herein are ordered to remain on file with the City Clerk and to be available for public use and inspection during regular business hours.

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:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

EXHIBIT "A"

**AMENDING CHAPTER 12A (SEWER PRETREATMENT)
OF THE GOODYEAR CITY CODE**

Pursuant to Ordinance No. 2023-1584 adopted by the City of Goodyear City Council on September 25, 2023, all Articles, Sections, and Subsections of Goodyear City Code CHAPTER 12A (Sewer Pretreatment) shall be deleted and replaced in their entirety, as set forth below:

Chapter 12A
SEWER PRETREATMENT

Articles:

12A-1 General Provisions

12A-2 General Sewer Use Requirements

12A-3 Pretreatment of Wastewater

12A-4 Wastewater Discharge Permits

12A-5 Reporting Requirements

12A-6 Compliance Monitoring

12A-7 Release of Information

12A-8 Enforcement Response Plan

12A-9 Affirmative Defenses for Discharge Violations

12A-10 Miscellaneous Provisions

Article 12A-1
GENERAL PROVISIONS

Sections:

12A-1-1 Purpose and Policy
12A-1-2 Administration
12A-1-3 Abbreviations and Definitions

12A-1-1 PURPOSE AND POLICY

(A) This chapter sets forth uniform requirements for Users of Publicly Owned Treatment Works (POTW) for the City and enables the City to comply with State and Federal laws, including the Clean Water Act (33 U.S.C. § 1251 et seq.) and General Pretreatment Regulations (40 C.F.R. § 403 ET SEQ.). The objectives of this chapter are to do the following:

(1) Prevent the introduction of pollutants into the POTW that will interfere with its operation;

(2) Prevent the introduction of pollutants into the POTW that will cause interference or pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;

(3) Protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(4) Promote reuse and recycling of industrial wastewater and sludge from the POTW; and

(5) Enable the City to comply with its Arizona Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

(B) This chapter shall apply to all Users of the POTW. This chapter authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

12A-1-2 ADMINISTRATION

Except as otherwise provided herein, the City Manager or their designee shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the City Manager may be delegated by the City Manager to a duly authorized City employee.

12A-1-3 ABBREVIATIONS AND DEFINITIONS

(A) The following abbreviations, when used in this chapter, shall have the designated meanings:

ADEQ –	ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
AZPDES –	ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM
BMP –	BEST MANAGEMENT PRACTICES
BMR –	BASELINE MONITORING REPORT
BOD –	BIOCHEMICAL OXYGEN DEMAND
CIU –	CATEGORICAL INDUSTRIAL USER
COD –	CHEMICAL OXYGEN DEMAND
DML –	DAILY MAXIMUM LIMIT
PS –	PRETREATMENT SUPERVISOR
EPA –	ENVIRONMENTAL PROTECTION AGENCY
ERP –	ENFORCEMENT RESPONSE PLAN
FOG –	FATS, OILS, AND GREASES
FSE –	FOOD SERVICE ESTABLISHMENT
GPD –	GALLONS PER DAY
IPI –	INDUSTRIAL PRETREATMENT INSPECTOR

IPP -	INDUSTRIAL PRETREATMENT PROGRAM
IPQ -	INDUSTRIAL PRETREATMENT QUESTIONNAIRE
IU –	INDUSTRIAL USER
MTCIU –	MIDDLE TIER CATEGORICAL INDUSTRIAL USER
MG/L –	MILLIGRAMS PER LITER
NAICS –	NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM
NOV –	NOTICE OF VIOLATION
NPDES –	NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
NSCIU –	NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USER
POTW –	PUBLICLY OWNED TREATMENT WORKS
SIC –	STANDARD INDUSTRIAL CLASSIFICATION CODE
SIU –	SIGNIFICANT INDUSTRIAL USER
SMR –	SELF-MONITORING REPORT
SNC –	SIGNIFICANT NONCOMPLIANCE
SS –	SUSPENDED SOLIDS
TRC –	TECHNICAL REVIEW CRITERIA
TSS –	TOTAL SUSPENDED SOLIDS
µG/L –	MICROGRAMS PER LITER
WDP-	WASTEWATER DISCHARGE PERMIT

(B) Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

ACT means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

ADMINISTRATIVE ORDERS means enforcement documents that direct Industrial Users to undertake, or to cease, specified activities and may incorporate compliance schedules, timeframes, administrative fines, and termination of service orders.

ADMINISTRATIVE WARRANT means a warrant issued by a court which authorizes City staff to conduct an administrative search to ensure compliance with the provisions of this chapter and permits.

APPROVAL AUTHORITY means the State of Arizona Department of Environmental Quality (ADEQ) or Regional Administrator for Region IX of the U.S. EPA.

ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM (AZPDES) means the state program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment and bio-solids requirements under A.R.S. Title 49, Chapter 2, Article 3.1 and 18 A.A.C. 9, Articles 9 and 10.

AUTHORIZED OR DULY AUTHORIZED REPRESENTATIVE OF THE USER means the following:

(1) If the User is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager:

(1) Is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations;
(2) Is authorized to initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations;
(3) Can ensure that the necessary systems are established or actions taken to gather complete and accurate information for wastewater discharge permit requirements; and
(4) Has been assigned or delegated authority to sign documents in accordance with corporate procedures.

(2) If the User is a partnership or sole proprietorship; a general partner or proprietor, respectively.

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in subsections (1) through (3) of this definition may designate a Duly Authorized Representative if:

(a) The authorization is in writing,
(b) The authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and
(c) The written authorization is submitted to the City.

If an authorization in this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section shall be submitted to the city prior to or together with any reports to be signed by an authorized representative.

BASELINE MONITORING REPORT (BMR) means a report submitted by CIU which indicates the compliance status of the CIU within an applicable categorical standard.

BEST MANAGEMENT PRACTICES (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement prohibitions identified in City Code and 40 C.F.R. § 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means, i.e. Management Plans, of complying with or in place of certain established categorical pretreatment standards and effluent limits. BMPs shall be subject to all requirements and enforcement actions contained in this chapter.

BIOCHEMICAL OXYGEN DEMAND (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

BLOWDOWN means the minimum discharge of re-circulating water for the purpose of discharging materials contained in the water, the further buildup of which would cause concentration in amounts exceeding established limits.

BYPASS means the intentional diversion of waste streams from any portion of a treatment facility.

CATEGORICAL INDUSTRIAL USER (CIU) means an Industrial User subject to a categorical pretreatment standard or categorical standard.

CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307 (B) and (C) of the ACT (33 U.S.C. § 1317) that apply to a specific category of Users and that appear in 40 C.F.R. Chapter I, Subchapter N, Parts 405-471.

CHEMICAL OXYGEN DEMAND (COD) means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

CITY means the City of Goodyear.

CITY MANAGER means the City manager of the City of Goodyear or their designee.

CIVIL ACTION means order(s), hearing(s), or other action(s) to enforce the City Code and other local, federal, and Arizona regulations, including judicial proceedings; orders may include fines, damages, and injunctive relief and/or any other action or remedy available by law.

COMPLIANCE INSPECTION means inspection(s) to determine compliance status and identify practices that may lead to noncompliance; inspections may or may not be scheduled in advance.

COMPLIANCE MEETING means meeting with Industrial User to discuss the causes of noncompliance, corrective actions to achieve compliance, and time frames for implementation of corrective actions.

COMPLIANCE SCHEDULE means a schedule of remedial measures included in a permit or an enforcement order, including a sequence of requirements (e.g. actions, operations, or milestone events), that lead to compliance with this chapter or the User's permit.

COMPOSITE SAMPLE

(1) A combination of individual samples obtained at regular intervals over a specified time period. The volume of each individual sample shall be either proportional to the flow rate during the sample period (flow-proportional composite) or constant and collected at equal time intervals during the composite period (time-proportional composite) as defined in the permit. Aliquots may be collected manually or automatically. Each sample aliquot must be at least 100 ml in volume unless collected using automatic self-purging sampling equipment.

(2) For volatile pollutants required to be combined for analysis, aliquots must be combined in the laboratory immediately before analysis. The volatile composite samples must be collected by flow proportional means; either the time interval between each aliquot or the volume of each aliquot must be proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot.

(3) If one day is defined as a 24-hour period other than a calendar day, the analytical result for the 24-hour period will be considered as the result for the calendar day in which the 24-hour period ends.

CONTROL AUTHORITY means the City of Goodyear.

CONSISTENT COMPLIANCE means full compliance with all applicable pretreatment standards and reporting requirements during the most recent reporting year *(or most recent 12 month reporting period).*

CRIMINAL ACTION means order(s), hearing(s), or other action(s) to enforce the City Code and other local, federal, and Arizona law, including judicial proceedings, involving violations for criminal offenses; orders may include fines, damages, injunctive relief, prohibition, and imprisonment and/or any other action or remedy available by law.

DAILY DISCHARGE means the "discharge of a pollutant" measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For

pollutants with limitations expressed in other units of measurements, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

DAILY MAXIMUM or *DAILY MAXIMUM LIMIT* or *MAXIMUM DAILY DISCHARGE LIMITATION* means the highest allowable daily discharge.

DAY means calendar days unless otherwise specified in the text.

DIRECT DISCHARGE means the wastewater that goes directly into waters of the state (groundwater, streams, lakes, rivers, etc.) without treatment from a POTW. This includes through a storm sewer system that enters waters of the state, a ditch, or other conveyance.

DIRECTOR means the Water Services Director who is authorized by the City Manager to administer, implement, and enforce the provisions of this chapter, or other city personnel designated by the Director to act on their behalf under this chapter.

DISCHARGE means the introduction of Pollutants into the POTW from any nondomestic source.

ENFORCEMENT RESPONSE PLAN (ERP) means a document which outlines procedures that the POTW will use to identify, track and respond to noncompliance of this chapter.

ENVIRONMENTAL PROTECTION AGENCY (EPA) means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized EPA official.

EXISTING SOURCE means any source of discharge that is not a New Source or a new indirect discharger.

FATS, OILS, AND GREASES (FOG) means the category which requires regulation to control fats, oils and greases which includes FSEs, automotive repair, laundries, car washes, salon, barber/beauty shop that wash hair, medical clinic, etc. This includes substances that may solidify or become viscous between the temperatures of 32°F and 150°F (0°C to 65°C), and or that separate from wastewater by gravity.

FOOD SERVICE ESTABLISHMENT (FSE) means any facility that prepares or serves food for consumption and discharges kitchen or food preparation wastewater including; hotel/motel kitchens, hospitals, school kitchens, bars, factory, cafeterias, clubs, delis, kiosks, tea rooms, snack bars, ice cream shops, fudge shops, food courts, coffee shops, diners and any other facility that in the City's determination shall require a grease trap or interceptor installation by virtue of its operations. This also includes any establishment that requires a county food service license.

GOOD FAITH EFFORT means Industrial User's honest intention to achieve compliance and/or remedy noncompliance coupled by actions supporting this intention.

GRAB SAMPLE means a sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

GREASE TRAP means a device for separating and retaining waterborne greases and grease complexes prior to the wastewater exiting the trap and entering the sanitary sewer collection and treatment system. Such traps are typically compact under-the-sink units that are near food preparation areas.

GREASE INTERCEPTOR means a structure or device designed for the purpose of removing and preventing fats, oils, and grease from entering the sanitary sewer collection system. These devices are often below-ground units in outside areas and are built as two or three-chamber baffled tanks.

GUIDELINE means the City of Goodyear Waste Water Discharge Permit Application Process Guideline, which is found in the City of Goodyear Administrative Process Manual.

HAULER means a person who transports sanitary sewage, industrial wastewater, or sludge off-site by other than the POTW conveyance system.

HAZARDOUS SUBSTANCE means as defined in 40 C.F.R Part 300.5.

HAZARDOUS WASTE means as defined in 40 C.F.R Part 261.3.

INCONSISTENT COMPLIANCE is the compliance status of a user not meeting the definition of *CONSISTENT COMPLIANCE* and not meeting the definition of *SIGNIFICANT NONCOMPLIANCE*.

INDIRECT DISCHARGE means the introduction of pollutants into the POTW from any non-domestic source through a sanitary sewer or through a storm sewer.

INDUSTRIAL USER (User or IU) means the nondomestic sewer user; a source of discharge into the POTW from a nondomestic source; a source of indirect discharge.

INDUSTRIAL WASTE means waste produced by Industrial User activity.

INSTANTANEOUS LIMIT means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any grab or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

INTERFERENCE means a discharge which, alone or in conjunction with a discharge or discharges from other sources, that either:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or

(2) Causes a violation of the City of Goodyear's AZPDES Permit or prevents sewage sludge use or disposal in compliance with any of the following statutory provisions and regulations (or more stringent state or local regulations) or permits issued thereunder:

   (a) Section 405 of the Clean Water Act;
   (b) The Solid Waste Disposal Act (SWDA), and any regulations contained in any State Sludge Management Plan prepared pursuant to Subtitle D of the SWDA;
   (c) The Clean Air Act;
   (d) The Toxic Substance Control Act; and
   (e) The Marine Protection, Research and Sanctuaries Act.

LOCAL LIMIT means the effluent discharge limits or BMPs applicable to Significant Industrial Users or other controlled industrial users of the City of Goodyear's system developed by the City of Goodyear in accordance with 40 CFR 403 and any other applicable laws.

MANHOLE means a structure of suitable design and construction to permit safe access to the public sewer from the surface for inspection, control and maintenance.

MASS LIMITATION means regulatory limitations expressed in units of mass, e.g., pounds per day, as opposed to concentration, e.g., milligrams per liter.

MEDICAL WASTE means the isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, dialysis wastes, and marijuana, in any form, including but not limited to pharmaceutical drug and pharmaceutical waste.

MONITORING EQUIPMENT OR SAMPLING EQUIPMENT means equipment that is used for investigating, surveying and sampling wastewater sources in an effort to obtain information on the quality and quantity of wastewater flows.

MONTHLY AVERAGE means the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

MONTHLY AVERAGE LIMIT means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

NEW SOURCE means the following:

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

   (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
   (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
   (c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)(b) or (c) of this section but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a New Source as defined under this subsection has commenced if the owner or operator has:

   (a) Begun, or caused to begin, as part of a continuous onsite construction program:

      (1) Any placement, assembly, or installation of facilities or equipment; or
      (2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

   (b) Entered into a binding contractual obligation for the purchase of facilities or equipment, which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

NONCONTACT COOLING WATER means the water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) means the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing

statistical data related to the U.S. business economy; formerly known as the Standard Industrial Classification System (SIC).

NOTICE OF VIOLATION (NOV) means the official notice of violation delivered to the Industrial User requiring a formal response and action.

NOTICE TO SHOW CAUSE means the official notice provided to the Industrial User of the meeting with the Director, or a duly authorized representative, to provide reasons why a proposed enforcement action should not occur.

OPERATOR means a person who operates a business and therefore controls the operation and discharge.

PASS THROUGH means the discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's AZPDES permit, including an increase in the magnitude or duration of a violation.

PERSON means any individual, partnership, co-partnership, firm, company, corporation, association, trust, estate, governmental entity, municipality, state or federal agency or any other legal entity; or their legal representatives, agents, assigns or employees thereof.

pH means the measure of the acidity or alkalinity of a solution, expressed in standard units.

PHARMACEUTICAL WASTE means any prescription drug or any nonprescription drug (legal or non-legal substance) or any proprietary medicine, regardless of form, that is no longer suitable for its intended purpose or is otherwise being discarded.

POLLUTANT means the dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g. pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor). This includes man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of the water.

POLLUTION PREVENTION means the steps taken to reduce or eliminate the creation of pollutants through:

(1) Increased efficiency in the use of raw materials, energy, water, or other resources, or

(2) Protection of resources through conservation. Examples include substituting nontoxic materials for toxic materials, reformulating products, modifying manufacturing, and recycling.

PRETREATMENT means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

PRETREATMENT DEVICE means the equipment, material, or structures used to reduce, eliminate, or alter the nature of pollutant properties in wastewater before, or in lieu of, introducing pollutants into the POTW.

PRETREATMENT PROGRAM means the City's regulation of Industrial User discharges to the POTW.

PRETREATMENT REQUIREMENTS means any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

PRETREATMENT STANDARDS OR STANDARDS means the limitations of pollutant discharges to POTW promulgated by EPA in accordance with Section 307 of the Clean Water Act, prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

PRETREATMENT SUPERVISOR (PS) means the supervisor of the City of Goodyear IPP.

PROHIBITED DISCHARGE STANDARDS OR PROHIBITED DISCHARGES means the absolute prohibitions against the discharge of certain substances as provided in this chapter.

PUBLICLY OWNED TREATMENT WORKS (POTW) means a treatment works, as defined by section 212 of the Act (33 U.S.C. § 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

REPRESENTATIVE SAMPLE means a sample portion of material or waste stream that is as nearly identical in content and consistency as possible to the material or industrial wastewater being sampled.

SELF-MONITORING means the sampling and analyses performed by a User to determine compliance with a permit or other regulatory requirements.

SELF-MONITORING REPORT (SMR) means the report submitted by the User to demonstrate compliance.

SEVERE PROPERTY DAMAGE means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

SEWER SYSTEM means the complete municipal sewer system, including, sanitary sewer mains, manholes, lateral sewer lines, pipelines, conduits, pumping stations, forced mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting waters to an ultimate point for treatment or disposal.

SEWAGE means human excrement and gray water (household showers, dishwashing operations, etc.).

SHOW CAUSE ORDER means the official notice provided to the Industrial User of the meeting with the Director, or a duly authorized representative, to provide reasons why a proposed enforcement action should not occur.

SIGNIFICANT CHANGES means, but is not limited to, any planned physical alterations, additions or changed conditions at a User's facility or any changes to a permittees operation or system; or pollutants that may alter the waste stream nature and/or quality or change in the volume of User's wastewater discharge. A significant change in discharge volume, production level, or any factor affecting the calculation of Effluent Limits applied to a User is a change specified by the Director in writing. When not otherwise specified by the Director a change of twenty (20) percent or greater applies.

SIGNIFICANT INDUSTRIAL USER (SIU) means the following:

(1) An Industrial User subject to categorical Pretreatment Standards; or

(2) An Industrial User that:

(a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blow down wastewater); or
(b) Contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
(c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

(3) *NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USER (NSCIU)* - The City may determine that an Industrial User subject to Categorical Pretreatment Standards is a non-significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 GPD of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically including in the pretreatment standard) and the following conditions are met:

(a) The Industrial User, prior to the City finding, has consistently complied with all applicable categorical pretreatment standards and requirements; and
(b) The Industrial User annually submits the certification statement prescribed in 40 C.F.R. § 403.12(Q), together with any additional information necessary to support the certification statement; and
(c) The Industrial User never discharges any untreated concentrate wastewater.

(4) Upon a finding that a User meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 C.F.R. § 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

SLUG LOAD OR SLUG DISCHARGE means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

SOLID WASTE means any garbage, refuse, or sludge from a treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or containing gaseous materials resulting from industrial, commercial, mining, and agricultural operations, and from community activities.

STORM WATER means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

TOTAL SUSPENDED SOLIDS (TSS) OR SUSPENDED SOLIDS (SS) means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.
UPSET means an exceptional incident in which there is unintentional and temporary noncompliance with discharge limits because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, and lack of preventive maintenance or careless or improper operation.

WASTEWATER means the liquid and water carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

WASTEWATER DISCHARGE PERMIT means an authorization or equivalent control document issued by the City to Users discharging wastewater to the POW. The Permit may contain appropriate Pretreatment Standards and Requirements as set forth in this Chapter.

WASTEWATER SLUDGE means the solids or semisolids, residues, and precipitates separated from or created in wastewater.

Article 12A-2
GENERAL SEWER USE REQUIREMENTS

Sections:

12A-2-1 Prohibited discharge standards.
12A-2-2 Preliminary pretreatment.
12A-2-3 Industrial Monitoring Facilities Requirements.
12A-2-4 Special agreements with industrial concerns.
12A-2-5 National categorical pretreatment standards.
12A-2-6 Local limits.
12A-2-7 Medical waste.
12A-2-8 Right of revision.
12A-2-9 Dilution of Discharge.
12A-2-10 Tampering; Sewer system; Manhole.
12A-2-11 Tampering; Monitoring/sampling equipment, pretreatment device.

12A-2-1 Prohibited discharge standards

(A) General Prohibitions. No person shall discharge or cause to be discharged to the POTW any pollutant or wastewater which causes Pass Through or Interference.

These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other federal, state, or local Pretreatment Standards or Requirements. Pollutants, substances, or wastewater prohibited in this shall not be processed or stored in such a manner that they could be discharged to the POTW. This provision applies unless otherwise permitted by rules and regulations promulgated by the Director.

(B) The Director, in determining the acceptability of specific waste, shall consider the nature of the waste and the adequacy and nature of the collection, treatment and disposal system available to accept the waste.

(C) Specific Prohibitions. No person shall discharge or cause to be discharged into the POTW the following pollutants, substances, or wastewater:

(1) Any Pollutant that may be adverse or harmful to the POTW, POTW personnel, POTW equipment or POTW effluent quality including but not limited to:

(a) Any gasoline, fuel oils, or any other liquids, solids, or gases which create or tend to create a fire or explosion hazard in the POTW, or to be injurious in any other way to the POTW, including, but not limited to, waste streams with a closed cup flash point of less than 140 degrees Fahrenheit;

(b) Any solids or viscous substances, or any waste that may precipitate, solidify, gel, polymerize, or become viscous under conditions normally found in the sewer system, or of such size or in such quantities that they may cause obstruction to flow in the sewer or be detrimental to POTW operations. Specifically, any solid waste not normally occurring in domestic waste that cannot pass through a 3/8 inch mesh screen. These objectionable substances include, but are not limited to, asphalt, dead animals, ashes, sand, mud, straw, industrial process shavings, metal, glass, rags, feathers, hair, grass clippings, tar, plastic resins, wood, blood, paunch manure, grease, bones, hair, fleshings, entrails, paper cups, paper dishes, milk cartons or other similar paper products, either whole or ground;

(c) Any amounts of petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin that would cause or tend to cause interference or pass-through;

(d) Any biodegradable oils, fats and greases, such as lard, tallow, or vegetable oil, in concentrations or quantities which could cause obstruction of the POTW or interference with conveyance or treatment.;
(e) Any waste in such concentration or volume that is toxic to humans, animals, the local environment or to POTW treatment processes, or which causes interference, upset or pass-through at the POTW;
(f) Any waste having a pH lower than 5.5 or greater than 10 standard units; or which causes incrustations or scale, or precipitates on sewer walls; or having any corrosive or detrimental characteristics that may cause injury to the POTW or service and maintenance personnel;
(g) Any waste having a temperature of 140 degrees Fahrenheit or higher at the discharge point, or which causes the POTW influent to exceed 104 degrees Fahrenheit;
(h) Any excessive amounts of chlorinated hydrocarbon or organic phosphorous-type compounds;
(i) Wastewater that imparts color that cannot be removed by the POTW treatment process, such as but not limited to, dye waste and vegetable tanning solutions.
(j) Any waste containing detergents, surface active agents, or other substances, which may cause excessive foaming in the sewerage system;
(k) Any sludge from water or wastewater treatment plants not owned and operated by the City. The Director may permit a User to discharge this substance upon a finding that the discharge will not adversely affect the operation of the POTW and the pollutant concentrations do not exceed those in the sludge produced by the POTW. No such permit shall be issued which would violate any other federal, state or local rule, regulation or standards;
(l) Any hazardous wastes discharged to any portion of the POTW by truck, rail or dedicated pipeline;
(m) Any trucked or hauled pollutants except at discharge points as designated by the Director;
(n) Any slug load;
(o) Industrial wastewater which may be dangerous to the public, the environment, or which creates a public nuisance, including, but not limited to:

(1) Any radioactive material wastes not in compliance with applicable federal or state regulations;
(2) Any waste containing toxic or poisonous solids, liquids or gases in such quantities that alone, or in combination with other waste substances, may create a hazard for humans, animals, or the local environment, interfere detrimentally with wastewater treatment processes, cause a public nuisance, or cause any condition requiring emergency response in the POTW;
(3) Any pollutants which can result in the formation or presence of toxic gases, vapors, or fumes within the POTW that may cause or tend to cause worker health and safety problems;
(4) Any strongly odorous waste or waste tending to create odors;
(5) Any industrial wastewater in such concentration or volume that may cause failure in the effluent toxicity testing;
(6) Any recognizable portions of the human anatomy.

(p) Industrial wastewater that may cause POTW hydraulic loading problems or may dilute the biological strength of the POTW's headworks, including, but not limited to:

(1) Any water added for the purpose of diluting wastes which would otherwise exceed maximum concentration limits;
(2) Any rainwater, storm water runoff, groundwater, street drainage, roof drainage, yard drainage, water from yard fountains, ponds, swimming pools, lawn sprays or uncontaminated water except where prior approval for such discharge is given by the Director;
(3) Any deionized water, steam condensate or distilled water in amounts which cause problems with hydraulic loading;
(4) Any blow down or bleed water from heating, ventilating, air conditioning or other evaporative systems exceeding one-third of the makeup water in a 24-hour period;

(5) Any single pass cooling or heating water.

(q) Any of the following prohibited substances:

4,4'-DDE
4,4'-DDT
Aldrin
BHC-Alpha
BHC-Beta
BHC-Gamma (Lindane)
Heptachlor
Heptachlor Epoxide
Polychlorinated Biphenyl Compounds (PCBs)

(r) Any water or waste exceeding the limits for the following substances that are expressed in the total form except if otherwise stated;

Instantaneous Maximum Allowable Discharge Limitations	
Substance	Limitation
Benzene	35 (ug/l)
Chloroform	2000 (ug/l)

12A-2-2 PRELIMINARY PRETREATMENT

(A) Required. Where necessary in the opinion of the City, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to the provisions in this Chapter.

(B) Approval. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for all approval by state and local government. No construction of such facilities shall be commenced until such approvals are obtained in writing.

(1) Users shall submit to the IPP detailed drawings for review of existing or proposed construction of pretreatment facilities, spill containment facilities and monitoring or metering facilities. Users shall not begin construction of the proposed facility without prior approval of the IPP. The IPP's review or approval of the drawings shall in no way relieve the User of any future responsibility for modifying the facilities or procedures to meet the requirements of this chapter.

(2) All drawings shall include the following:

(a) North arrow;

(b) Scale size;
(c) User name and address;
(d) Drawing name and drawing number
(e) Date drawn or revised
(f) Name of draftsman and name of person approving drawing

(3) The IPP may require drawings to scale or schematic drawings depicting the manufacturing process (waste generating sources), spill containment, pretreatment facilities, and/or monitoring and metering facilities.

(4) The IPP shall require the drawings be prepared, signed, and sealed by a registered Arizona engineer.

(C) Maintenance of Facilities. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

12A-2-3 INDUSTRIAL MONITORING FACILITIES REQUIREMENTS

(A) When required by the City, the owner of any property served by a building sewer carrying industrial wastes shall install suitable monitoring facilities in the building sewer to facilitate observation and sampling of wastes. Such facilities, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the City and section 12A-6-1. The monitoring facilities shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

(B) All tests and analyses of the characteristics of waters and wastes shall be determined in accordance with section 12A-5-10 and shall be determined at the monitoring facilities provided for in this section.

(C) Monitoring facilities inspection fees and costs for sampling and analysis of industrial wastewater shall be charged to the customer in addition to regular sewer charges.

12A-2-4 SPECIAL AGREEMENTS WITH INDUSTRIAL CONCERNS

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment to the City from the Industrial User.

12A-2-5 NATIONAL CATEGORICAL PRETREATMENT STANDARDS

(A) Users shall comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

(1) Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City may impose equivalent concentration or mass limits in accordance with 40 CFR § 403.6(c).

(2) A User may obtain a variance from a categorical pretreatment standard, pursuant to the procedural and substantive provisions in 40 CFR § 403.13.

(3) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director shall impose an alternate limit using the combined waste stream formula in 40 CFR § 403.6(e).

(4) A User may obtain a net/gross adjustment to a categorical standard in accordance with 40 CFR § 403.15.

12A-2-6 LOCAL LIMITS

(A) The City is authorized to establish local limits pursuant to 40 CFR § 403.5(c).

(B) All persons owning or operating facilities or engaged in activities that will or may reasonably be expected to result in pollutants entering the City sanitary sewer system or affecting the sanitary sewer system or affecting the POTW shall undertake all practicable best management practices identified by the Director to minimize the discharge of pollutants. Such measures shall include the requirements imposed by this Chapter, any applicable NPDES or AZPDES permits, and any written guidelines promulgated for general use by the Director.

(C) The Director shall have the authority to:

(1) Establish limitations for Industrial Users for various pollutants, materials, waters, or wastes that can be accepted into the sanitary sewer system;

(2) Specify those pollutants, materials, waters, or wastes that are prohibited from entering the sanitary sewer system;

(3) Identify those pollutants, materials, waters, or wastes that shall be controlled with best management practices; and

(4) Require Industrial Users to implement best management practices for any pollutant.

(D) All affected Industrial Users shall comply with the prohibitions and effluent limitations established pursuant to this article, and with any best management practices required by the Director.

(E) All prohibitions and effluent limitations so established and all best management practices identified by the Director will be placed on file with the City Clerk and become effective and enforceable on the 31st day after the date of filing.

(F) The following pollutant concentration limitations are established to protect the POTW against pass through and interference. Each User who discharges an indirect discharge to the POTW and is required to obtain a Wastewater Discharge Permit pursuant to Article12A-4 of this Chapter shall not discharge or cause to be discharged at any entry point to the POTW any wastewater containing in excess of the following daily maximum limits as set forth below:

Parameter (1)	Daily Maximum Limit (milligrams per liter)	Sample Type
Arsenic	0.250	Composite
Boron	3.94	Composite
Cadmium	0.049	Composite
Copper	1.668	Composite
Cyanide	1.29	Grab
Lead	0.291	Composite
Mercury	0.172	Composite

Parameter (1)	Daily Maximum Limit (milligrams per liter)	Sample Type
Molybdenum	444	Composite
Nickel	0.714	Composite
Silver	10.4	Composite
Zinc	1.81	Composite
BOD	640	Composite
TSS	951	Composite
Total Nitrogen	140	Composite

(1) All concentrations for metallic substances are for total metals unless indicated otherwise.
(2) The Director may impose or allow mass limitations in addition to or in place of the concentration-based limitations above.
(3) The Director is authorized to calculate User-Specific Limits based on available capacity of the POTW served by the Industrial User on a case-by-case situation based on factors such as User flows, pollutant discharge levels, POTW performance, and regulatory controls imposed upon the POTW.

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations are expressed in the "total" form unless indicated otherwise. The Director may impose mass limitations in addition to, or in place of, the concentration-based limitations above. The Director may incorporate local limits on a user-specified basis into wastewater discharge permits where necessary to meet maximum allowable industrial loading limitations. Any violation of a user-specific pollutant limitation as may be set for by the city shall subject the user to the same administrative actions, penalties, and enforcement actions as would be available for any other violations of these regulations.

(G) When the Director determines that a User is discharging to the POTW any wastes not previously identified as prohibited in such amounts as may interfere with, pass through, or upset the operation of the POTW, the Director shall:

(1) Advise the User of the impact of the contribution on the POTW;

(2) Develop a discharge limitation for such User to correct the interference with the POTW; and

(3) Require the User to comply with the discharge limits.

(H) User Specific limits

(1) The Director is authorized to calculate User-Specific Limits based on available capacity of the treatment plant served by the Industrial User.

(2) Available capacity is affected by several factors such as Industrial User flows, pollutant discharge levels, POTW performance, and regulatory controls imposed upon the POTW.

(3) The Director may develop Best Management Practices (BMPs), by chapter or in individual wastewater discharge permits to implement Local Limits and the requirements of Section 12A-2.

The following Pollutants may be incorporated into the WDP by the Director as User Specific Limitations or as Alert Levels.

Parameter	Daily Maximum Limit (milligrams per liter)	Alert Level (milligrams per liter)	Sample Type
Chromium (Total)	User Specific Limitation	2.23	Composite
TDS	User Specific Limitation	1400	Composite
Selenium	User Specific Limitation	0.028	Composite

12A-2-7 MEDICAL WASTE

(A) Regulated Facilities. Hospitals, clinics, offices of medical doctors, mortuaries, morgues, long-term health care facilities, and other institutional facilities of a medical or healthcare nature:

(1) May discharge through a grinder installation after Director's approval. The installation will have inlet size and design features suitable for its intended use and so constructed that all particles pass through a maximum 3/8-inch mesh opening;

(2) Shall not discharge to the sewer by any means:

(a) Solid wastes generated in the rooms of patients who are isolated because of a suspected or diagnosed communicable disease;
(b) Recognizable portions of the human anatomy;
(c) Equipment, instruments, utensils and other materials of a disposable nature that may harbor or transmit pathogenic organisms and that are used in the rooms of patients having a suspected or diagnosed communicable disease which by the nature of the disease is required to be isolated by public health agencies;
(d) Wastes excluded by other provisions of this chapter.

(B) Limit of Authority. Nothing in this section shall be construed to limit the authority of the Arizona Department of Environmental Quality or other federal, state or local authorities to define waste as being medical waste and, with the concurrence of the Director, to require that the waste will not be discharged to the POTW.

12A-2-8 RIGHT OF REVISION

The City of Goodyear reserves the right to establish, by chapter or in wastewater discharge permits more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this Chapter.

12A-2-9 DILUTION OF DISCHARGE

No User, intentionally, deliberately, knowingly or willingly, shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable City Pretreatment Standard or Requirement. The Director may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or requirements or in other cases when the imposition of mass limitations is appropriate.

12A-2-10 TAMPERING; SEWER SYSTEM; MANHOLE.

(A) No person, without lawful authority, shall knowingly do any of the following:

(1) Knowingly open, remove or interfere with or tamper with, in any manner, any manhole, manhole cover or public sewer of the City.

(2) Knowingly divert or direct, or cause to divert or direct, the flow of water or any other fluid or foreign substances into manholes installed in the sanitary sewer system of the City.

(3) Knowingly enter into any City owned manhole or deposit any substance, regardless of form, into a City owned manhole or City sewer system.

(B) A violation of this section is subject to all civil and criminal penalties provided in Article 1-8 and Chapter 18 of the Goodyear City Code.

12A-2-11 TAMPERING; MONITORING/SAMPLING EQUIPMENT, PRETREATMENT DEVICE

(C) No person, without lawful authority, shall knowingly do any of the following:

(1) Alter, interfere, modify, remove, damage, or destroy any public or privately owned monitoring or sampling equipment, or any part of the monitoring or sampling equipment, in a manner that could improperly modify the readings, analysis or operation of the monitoring or sampling equipment.

(2) Alter, bypass, or reroute the discharge or flow of wastewater in a manner that could improperly modify the readings, analysis or operation of the monitoring or sampling equipment.

(3) Alter, modify, tamper, damage, destroy or bypass a pretreatment device in a matter that could improperly modify the readings, analysis or operation of a pretreatment device.

(D) A violation of this section is subject to all civil and criminal penalties provided in Article 1-8 and Chapter 18 of the Goodyear City Code.

Article 12A-3
PRETREATMENT OF WASTEWATER

Section:

12A-3-1 Pretreatment Facilities
12A-3-2 Additional Pretreatment Measures
12A-3-3 Accidental Discharge/Slug Discharge Control Plans

12A-3-1 PRETREATMENT FACILITIES

(A) Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions provided in this Article within the time limitations specified by EPA, the State, or the City, whichever is more stringent. Any facilities and equipment necessary for compliance shall be provided, operated, and maintained at the User's sole expense.

(B) User shall provide detailed plans describing its wastewater treatment facilities, equipment and operating procedures to the Director for review. This requirement applies to both initial approval and any subsequent modifications. The plans must be accepted and approved by the City prior to commencing construction or installation of the facilities or equipment. The approval of the plans and inspection of construction shall not relieve the owner from complying with, and achieving, discharge limitations set forth in this chapter. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a Discharge acceptable to the City under the provisions of this Chapter.

(C) The process for plan submission, approval and denial shall be in accordance with the procedures and timeframes outlined in the City of Goodyear Administrative Process Manual.

12A-3-2 ADDITIONAL PRETREATMENT MEASURES

(A) The Director may require Users to restrict their discharge, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be determined necessary by the Director to protect the POTW and determine the User's compliance with the requirements of this Chapter.

(B) The Director may require any person discharging into the POTW to install and maintain, on their property and at their sole expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(C) The Director may require Users, which includes food preparation facilities, to install grease, lint, sand/oil interceptors, oil/water separators, hair or grease trap(s) as needed for the proper handling of wastewater containing excessive amounts of fats, oils, grease, lint or sand; except that such interceptors or traps shall not be required for residential users. Requirements for the proper handling of fats, oils, grease, lint, sand and solids in wastewater are as follows:

(1) Grease interceptors and grease traps shall be required, installed, and maintained as specified in this Chapter for the sizing and cleaning of interceptors and traps for the required industrial users.

(2) Lint, sand/oil interceptors and oil/water separators shall be installed in compliance with the City code.

(3) All interceptors, separators and traps shall be of the type and capacity approved by the Director and shall be located to be easily accessible for cleaning and inspection. Interceptors, separators and traps shall be inspected, cleaned, and repaired regularly (90 days or less) by the user at the user's expense. The User

shall keep records of all cleaning, repair and maintenance for at least three years. Such records shall be readily available for inspection by the Director upon request at no expense to the City.

(4) The User shall be responsible for reimbursing the City for any and all expenses, costs, and penalty fees and fines for the cleanup of any sanitary sewer overflow from the Sewer System as a result, directly or indirectly, of the User actions.

(D) The method for determining the size of traps or interceptors is the drainage fixture unit value. The minimum size for all interceptors is a capacity of 500 gallons and the maximum size for all interceptors is a capacity of 2,500 gallons. Interceptors must be constructed with at least two chambers. Sizing for all traps is a minimum of a 50 gallon per minute, 100 pound capacity with the flow control valve installed in a manner that provides access at all times. High-Capacity Hydraulic grease traps and interceptors are allowed with Director approval. The appropriate size for interceptors and traps is determined as follows:

(1) *Interceptor Sizing.* The interceptor shall be sized using the drainage fixture-unit value as defined in the following table. Using the drain outlet or trap size, these sizes are converted to discharge rates on the basis that one fixture-unit equals 7.5 gpm.

Fixture Outlet or Trap Size (Inches)	**Drainage Fixture-Unit Value**	**GPM Equivalent**
1 1/4	1	7.5
1 1/2	2	15.0
2	3	22.0
2 1/2	4	30.0
3	5	37.5
4	6	45.0
Floor Drains (All Sizes)	2	15.0
Dishwashers	Double Size	

(2) *Calculating Interceptor Size.* Formula to calculate the size of the interceptor is:

(a) Determine total fixture-unit value by multiplying fixture type count by drainage value;
(b) Total all values;
(c) Determine total flow by multiplying total value by flow rate of three gpm;
(d) Multiply total flow by 12; and
(e) Round up to the next nearest size interceptor.

(3) *Requirements for Interceptors.* The interceptor shall be:

(a) A minimum of 500 gallon capacity, two chamber concrete container (fiberglass and/or other type material must be approved by the Director);

(b) When calculated to have a capacity of 750 gallons or more, the interceptor must have three chambers, each with a manway;
(c) Constructed with inlet piping with a 90-degree elbow and minimum of an 18-inch down spout;
(d) Constructed with outlet piping with a tee connection and a threaded cover with a minimum of an 18-inch down spout;
(e) Installed with a two way clean-out within five feet before and five feet after the interceptor; and
(f) Constructed with the appropriate traffic-rated cover. The cover(s) must not be marked with any wording indicating it is owned by the City of Goodyear.
(g) Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gas-tight and watertight.
(h) Lockable shut-off valves shall be provided between interceptors and service taps into sewer mains where required by rules and regulations promulgated by the Director.

(4) *Grease Trap Installation and Sizing.* Grease traps are allowed only when there are four or fewer than four fixtures used for food preparation. Any facility installing a dishwasher shall install a grease interceptor. For the purpose of sizing a grease trap, a fixture means the entire unit, e.g., a three-compartment sink is considered one unit. Grease traps must be installed as follows:

(a) A grease trap shall be installed whenever a three-compartment sink is required and or required by Maricopa County;
(b) The minimum size grease trap to be installed shall be rated no smaller than 50 gallon-per-minute with a 100-pound grease capacity; and
(c) A flow restriction valve shall be installed upstream of the grease trap and vented properly. If placed below floor level the flow restriction valve must be installed in a manner which allows for inspection and maintenance.

(E) All grease traps, oil, sand and grease interceptors shall be pumped out or cleaned out completely at least once every 90 days, or more frequently as required by the City, unless otherwise authorized in writing by the Director.

(F) Except for residential sources, users shall not install or replace equipment designed to convert garbage or solid waste into liquefied waste and introduce such waste into the POTW by means of a garbage grinder/disposal. Garbage and solid waste shall be disposed of as provided in Article 10 of the Goodyear City Code.

(G) Administrative and penalty fees and costs will be assessed by the City for the inspections and tracking compliance with this subsection.

12A-3-3 ACCIDENTAL DISCHARGE/SLUG DISCHARGE CONTROL PLANS

(A) The Director shall evaluate whether each SIU needs an accidental discharge and/or slug discharge control plan or other action to control Slug Discharges. The Director may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Director may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the Director of any accidental or Slug Discharge, as required by this chapter; and

(4) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

Article 12A-4
Wastewater Discharge Permits

Sections:

12A-4-1 Wastewater Discharger Information Requirements
12A-4-2 Wastewater Discharge Permit (WDP) Classifications
12A-4-3 Wastewater Discharge Permit Requirement
12A-4-4 Wastewater Discharge Permit Application Contents
12A-4-5 Wastewater Discharge Permit Duration
12A-4-6 Wastewater Discharge Permit Contents
12A-4-7 Wastewater Discharge Permit Appeals
12A-4-8 Wastewater Discharge Permit Modification
12A-4-9 Wastewater Discharge Permit Transfer
12A-4-10 Wastewater Discharge Permit Renewal
12A-4-11 Regulation of Waste Received from Other Jurisdictions
12A-4-12 Signatory and Certification Requirement

12A-4-1 WASTEWATER DISCHARGER INFORMATION REQUIREMENTS

(A) It shall be unlawful for any person to connect, discharge or cause to be discharged any industrial wastewater directly or indirectly to the POTW without first obtaining Director approval.

(B) When requested by the Director, a user shall submit information on the nature and characteristics of its wastewater within 45 days of the request. The Director is authorized to prepare a form for this purpose and may periodically require users to update this information. All tests and analyses of the characteristics of water and wastewater shall be determined in accordance with approved laboratory procedures as that term is defined at Section 12A-5-10 of this chapter.

12A-4-2 WASTEWATER DISCHARGE PERMIT CLASSIFICATIONS

(A) The Director is authorized to issue the following types of Industrial User Permits:

(1) Class I Permits shall be issued to Significant Industrial Users (SIUs).

(2) Class II Permits may be issued to High Strength Users who are not otherwise required to obtain a Permit. A High Strength User is one whose discharge of process wastewater contains an average of 135 pounds or more per discharge day of the sum of BOD, TSS and TN.

(3) Class III Permits may be issued to a Zero Process SIU or to a User meeting the definition of NSCIU in Section 12A-1-3.

(B) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in this chapter. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

12A-4-3 WASTEWATER DISCHARGE PERMIT REQUIREMENT

(A) Any User meeting the definition of Significant Industrial User and or potential to meet permit classifications per 12A-4-2 is required to apply for a Wastewater Discharge permit in compliance with City Code with an application fee set by resolution of council. The Director is responsible for issuing all permits.

(B) No person shall discharge or cause to be discharged any industrial wastewater directly or indirectly to the POTW without first obtaining Director approval. The Director shall set requirements at least as stringent as applicable state or federal rules, regulations or pretreatment standards.

(C) All Industrial Users discharging pursuant to this section shall comply with the following requirements:

(1) Comply with all applicable federal, state and local laws, rules, regulations and processes, including but not limited to the Act and the general pretreatment regulations (40 Code of Federal Regulations Part 403);

(2) Not introduce pollutants into the POTW that will interfere with its operation and the efficient functioning of the system;

(3) Conduct periodic maintenance of the User's treatment and monitoring facilities to ensure that it is cleaned and functioning properly according to federal, state and local law, rules, and regulations;

(4) Take all necessary actions to prevent an overflow of sewage from the User's treatment and monitoring facilities. Should an overflow occur, the User shall be responsible, at its sole expense, to clean and properly sanitize any area that could create a public health hazard; and

(5) Notify the IPP primary contact immediately by phone and at IPP.goodyearaz.gov if a sewage overflow enters the public right-of-way or the property of another.

(D) No Significant Industrial User shall discharge wastewater into the POTW without first obtaining a permit or form of authorization from the Director to discharge wastewater.

(E) The Director may require other Users to obtain wastewater discharge permits as necessary to carry out the purposes of this Chapter.

(F) Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state Pretreatment Standards or Requirements or with any other requirements of federal, state, and local law.

(G) A separate permit may be required for each connection to the POTW. Any User required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW shall obtain a new permit prior to the beginning or recommencing of such discharge.

(H) The Director may require a separate permit from each tenant as well as the owner or manager of any multi-tenant property, including, but not limited to: shopping centers, medical centers, and industrial or commercial parks.

(I) Any failure to complete the required questionnaire, apply for and obtain a required permit, or violate the terms and conditions of a wastewater discharge permit shall be deemed violations of this chapter and subject the User to enforcement actions pursuant to Section 12A-8 of this chapter.

(J) Any User planning to discharge non-domestic wastewater into the sewer system and POTW, shall first complete

either an Industrial Pretreatment Questionnaire form (if they do not expect a permit is needed) or a permit application. Any User identified by the pretreatment program through the IPQ as needing a permit shall file a permit application. Applications for wastewater discharge permits, in accordance with this chapter, shall be filed at least ninety (90) days prior to the desired date of discharge, and the discharge permit obtained prior to commencing discharge.

12A-4-4 WASTEWATER DISCHARGE PERMIT APPLICATION CONTENTS

(A) All Users required to obtain an individual wastewater discharge permit shall submit a permit application on a form approved by the Director. The Director may require Users to submit all or some of the following information as part of a permit application:

(1) Identifying Information.

(a) The name and address of the facility, including the name of the operator and owner.
(b) Contact information, description of activities, facilities, and plant production processes on the premises;

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations.

(a) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications (SIC) / North American Industry Classification System Code (NAICS) of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
(b) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
(c) Number and type of employees, hours of operation, and proposed or actual hours of operation;
(d) Type and amount of raw materials processed (average and maximum per day);
(e) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit;

(6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in Section 12A-2-5(3) (40 CFR 403.6(e)).

(7) Measurement of Pollutants.

(a) The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Director, of regulated pollutants in the discharge from each regulated process.
(c) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall

be reported.

(d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 12A-5-10 of this chapter. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Director or the applicable Standards to determine compliance with the Standard.

(e) Sampling shall be performed in accordance with procedures set out in Section 12A-5-11 of this chapter.

(8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 12A-5-4B [40 CFR 403.12(e)(2)] .

(9) Any other information as may be deemed necessary by the Director to evaluate the permit application.

(B) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

12A-4-5 WASTEWATER DISCHARGE PERMIT DURATION

A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years or period of use, at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

12A-4-6 WASTEWATER DISCHARGE PERMIT CONTENTS

(A) A Wastewater Discharge Permit shall include such conditions as are deemed reasonably necessary by the Director to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1) Wastewater discharge permits shall contain:

(a) A statement that indicates Wastewater Discharge Permit issuance date, effective date and expiration date;

(b) A statement that the Wastewater Discharge Permit is non-transferable without prior notification to and approval from the city in accordance with Section 12A-4-9 of this chapter, and provisions for furnishing the new owner or operator with a copy of the existing Wastewater Discharge Permit;

(c) Effluent Limits including applicable Pretreatment Standards and Requirements, including any special state requirements and best management practices (BMPs);

(d) Self-monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law, and reporting of BMP implementation;

(e) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

(f) Requirement for immediate notification to Pretreatment Program where self-monitoring results indicate non-compliance;

(g) Requirement to report a bypass or upset of a Pretreatment Facility;

(h) Requirement to report immediately to the Pretreatment Program all discharges, including slug loadings, that could cause problems to the POTW;
(i) Requirement for the SIU who reports non-compliance to repeat the sampling and analysis and submit results to the IPP within 30 days after becoming aware of the violation.
(j) Requirements to control slug discharges, if determined by the POTW to be necessary.

(B) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the wastewater discharge permit; and

(8) Any special agreements the Director chooses to continue or develop between the Pretreatment Program and User as set forth in 12A-2-4;

(9) Other conditions as deemed appropriate by the Director to ensure compliance with this chapter, and State and Federal laws, rules, regulations and guidelines.

12A-4-7 WASTEWATER DISCHARGE PERMIT APPEALS

(A) Any person, including the User, may appeal to the Director to reconsider the terms of a wastewater discharge permit within 20 business days of its issuance.

(1) Failure to submit an appeal within 20 business days of the issuance of the discharge permit will constitute a waiver of the right to petition for review.

(2) In the petition, the appealing party must identify the wastewater discharge permit provisions objected to, the basis for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(3) The effectiveness of the wastewater discharge permit shall not be stayed pending an appeal.

(4) Upon receipt of a petition for review, the Director has 30 calendar days to respond to the petition and may modify, revoke, or affirm the wastewater discharge permit in whole or part. If the Director fails to act within 30 calendar days from receipt of the petition, the petition will be deemed to be denied. The Director's decision, including all denials, shall be considered final administrative action for purposes of judicial review.

12A-4-8 WASTEWATER DISCHARGE PERMIT MODIFICATION

(A) A Wastewater Discharge Permit Modification may be initiated by the Director or by the Permittee. The Director may modify the wastewater discharge permit for good cause including, but not limited to, the following reasons:

(1) To incorporate any new or revised federal, state, or local Pretreatment Standards or Requirements;

(2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the issuance of the wastewater discharge permit;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, biosolids, or the receiving waters;

(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR § 403.13;

(8) To correct typographical or other errors in the wastewater discharge permit;

(9) Increased monitoring or reporting required as a result of enforcement activities.

12A-4-9 WASTEWATER DISCHARGE PERMIT TRANSFER

(A) Wastewater Discharge Permits may be transferred to a new owner and/or operator only if the Permittee gives at least 90 days advance notice to the Director and the Director approves the Wastewater Discharge Permit Transfer. The notice to the Director must include a written certification by the new owner and/or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and process;

(2) Identifies the specific date on which the transfer is to occur; and;

(B) Failure to provide 90 day notice of a transfer renders the Wastewater Discharge Permit voidable as of the date to facility transfer.

12A-4-10 WASTEWATER DISCHARGE PERMIT RENEWAL

A User with an expiring wastewater discharge permit shall apply for the reissuance of their wastewater discharge permit by submitting a completed permit application, in accordance with Section 12A-4-4 and application fee at least 90 days prior to the expiration of the User's existing wastewater discharge permit. A User whose existing wastewater discharge permit has expired and who has submitted a reapplication in the time period specified herein shall be deemed to have an effective wastewater discharge permit until the Director issues or denies the new wastewater discharge permit. A User whose existing wastewater discharge permit has expired and who failed to submit a reapplication in the time period specified herein will be deemed to be discharging without a wastewater discharge permit and subject to enforcement action.

12A-4-11 REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS

(A) Before another municipality, User located within another municipality, or private utility contributes wastewater to the POTW they must enter into an agreement with the City, and comply with the provision of subsection (B) of this section.

(B) All agreements with any municipality, User located within another municipality, or private utility shall contain the following, along with such other provisions and information requested by the Director:

(1) Provide a description of the quality and volume of wastewater to be discharged to the POTW;

(2) A requirement for the contributing municipality, User located in another municipality, or private utility to adopt a sewer use ordinance which is at least as stringent as this chapter and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those provided in this chapter. The requirement shall specify that such chapter and limits must be revised as necessary to reflect changes made to the City's ordinance or Local Limits;

(3) A requirement for the contributing municipality, User located within another municipality, or private utility to submit a revised User inventory on an annual basis or request from the Director and provide immediate access to the facilities of the Users identified on the inventory for the purposes of inspection, sampling and any duties deemed necessary by the Director;

(4) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality, User located within another municipality, or private utility; which of these activities will be conducted by the Director; and which of these activities will be conducted jointly by the contributing municipality, User located within another municipality, or private utility and the Director;

(5) A requirement for the contributing municipality, User located within another municipality, or private utility to provide the Director with access to all information that the contributing municipality obtains as part of its pretreatment activities at no expense to the City;

(6) Limits on the nature, quality, and volume of the contributing municipality, User located within another municipality, or private utility's wastewater at the point where it discharges to the POTW; and

(7) Requirements for monitoring the contributing municipality, User located within another municipality, or private utility discharge.

12A-4-12 SIGNATORY AND CERTIFICATION REQUIREMENT

(A) All reports required by this chapter, federal or state regulations including but not limited to wastewater discharge permit applications, Baseline Monitoring Reports and User reports and Notices must be signed by an authorized or duly authorized representative as defined in this chapter at Section 12A-1-3

(B) All reports being submitted from the User shall contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Article 12A-5
Reporting Requirements

Section:

12A-5-1 Baseline Monitoring Reports
12A-5-2 Compliance Schedule Progress Reports
12A-5-3 Reports on Compliance with Categorical Pretreatment Standard Deadline
12A-5-4 Periodic Compliance Reports
12A-5-5 Reports of Changed Conditions
12A-5-6 Reports of Potential Problems
12A-5-7 Reports from Unpermitted Users
12A-5-8 Notice of Violation/Repeat Sampling and Reporting
12A-5-9 Notification of the Discharge of Hazardous Waste
12A-5-10 Analytical Requirements
12A-5-11 Sample Collection
12A-5-12 Date of Receipt of Reports
12A-5-13 Record Keeping
12A-5-14 Certification Statements

12A-5-1 BASELINE MONITORING REPORTS

(A) Within either 180 days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report which contains the information listed in Section 12A-5-1B, below. At least 90 days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the Director a report which contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable Categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) Users described above shall submit the information set forth below.

(1) All information required in Section 12A-4-4A(1)(a), Section 12A-4-4A(2), Section 12A-4-4A(3)(a), and Section 12A-4-4A(6).

(2) Measurement of pollutants.

(a) The user shall provide the information required in Section 12A-4-4A(7)(a) through (e).

(b) The user shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this paragraph.

(c) Samples shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;

(d) Sampling and analysis shall be performed in accordance with Section 12A-5-10 and Section 12A-5-11;

(e) The Director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(f) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(3) Compliance Certification. A statement, reviewed by the user's Authorized Representative as defined in Section 12A-1-3 and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

(4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the user shall provide such additional pretreatment and/or O&M shall be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section shall meet the requirements set out in Section 12A-5-2 of this chapter.

(5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 12A-5-14 of this chapter and signed by an Authorized Representative as defined in Section 12A-1-3.

12A-5-2 COMPLIANCE SCHEDULE PROGRESS REPORTS

The following conditions shall apply to the compliance schedule required by Section 12A-5-1B(4) of this chapter.

(A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable Pretreatment Standards. Such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation;

(B) No increment referred to above shall exceed nine (9) months;

(C) The user shall submit a progress report to the Director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(D) In no event shall more than nine (9) months elapse between such progress reports to the Director. More frequent reporting may be required by the Director.

(E) The Director is authorized to review and approve compliance schedules and may require shorter increments of progress between events.

12A-5-3 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE

Within 90 days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any user subject to such Pretreatment Standards and Requirements shall submit to the Director a report containing the information described in Section 12A-4-4(6) and (7) and 12A-5-1B(2) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 12A-5-14A of this chapter. All sampling shall be done in conformance with Section 12A-5-11.

12A-5-4 PERIODIC COMPLIANCE REPORTS

(A) Except as specified in Section 12A-5-4C, all Significant Industrial Users must, at a frequency determined by the Director submit no less than twice per year (January and July or on dates specified in its Permit) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the Director or the Pretreatment Standard necessary to determine the compliance status of the user.

(B) The city may authorize an Industrial User subject to a Categorical Pretreatment Standard to forego sampling of a pollutant regulated by a Categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. [*See* 40 CFR 403.12(e)(2)] This authorization is subject to the following conditions:

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable Categorical Standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five (5) years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 12A-4-4A(8).

(3) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(4) The request for a monitoring waiver must be signed in accordance with Section 12A-1-3 and include the certification statement in 12A-5-14A (40 CFR 403.6(a)(2)(ii)).

(5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(6) Any grant of the monitoring waiver by the Director must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the Director for 3 years after expiration of the waiver.

(7) Upon approval of the monitoring waiver and revision of the user's permit by the Director, the Industrial User must certify on each report with the statement in Section 12A-5-14C, that there has been no increase in the pollutant in its waste stream due to activities of the Industrial User.

(8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately: Comply with the monitoring requirements of Section 12A-5-4A, or other more frequent monitoring requirements imposed by the Director, and notify the Director.

(9) This provision does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standard.

(C) The city may reduce the requirement for periodic compliance reports to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard, where the Industrial User's total categorical wastewater flow does not exceed any of the following:

(1) 0.01 percent of the POTW's design dry-weather *hydraulic capacity* of the POTW, or five thousand (5,000) gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches;

(2) 0.01 percent of the design dry-weather *organic treatment capacity* of the POTW; and

(3) 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable Categorical Pretreatment Standard for which approved Local Limits were developed in accordance with Section 12A-2-6 of this chapter.

Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance, as defined in Section 12A-7-2 of this chapter. In addition, reduced reporting is not available to an Industrial User with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the Director, decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

(D) All periodic compliance reports must be signed and certified in accordance with Section 12A-5-14A of this chapter.

(E) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(F) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director, using the procedures prescribed in Section 12A-5-11 of this chapter, the results of this monitoring shall be included in the report.

12A-5-5 REPORTS OF CHANGED CONDITIONS

Each user must notify the Director of any significant changes (as defined at Section 12A-1-3) to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 90 days before the change.

(A) The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 12A-4-4 of this chapter.

(B) The Director may issue an individual wastewater discharge permit under Section 12A-4-2 of this chapter or modify an existing wastewater discharge permit under Section 12A-4-2 of this chapter in response to changed conditions or anticipated changed conditions.

12A-5-6 REPORTS OF POTENTIAL PROBLEMS

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, accidental discharge of hazardous waste, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the Director of the incident followed up with an email to ipp@goodyearaz.gov. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five (5) days following such discharge, the user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter**.**

(C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(D) Significant Industrial Users are required to notify the Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

12A-5-7 REPORTS FROM UNPERMITTED USERS

All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Director as the Director may require.

12A-5-8 NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING

If sampling performed by a user indicates a violation, the user must notify the Director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within 30 days after becoming aware of the violation. Resampling by the Industrial User is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the Industrial User.

12A-5-9 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE

(A) The discharge of hazardous waste is prohibited as provided in 40 CFR Part 261. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 12A-5-5 of this chapter. The notification requirement in this Section does not apply to pollutants already reported by users subject to Categorical Pretreatment Standards under the self-monitoring requirements of Sections 12A-5-1, 12A-5-3, and 12A-5-4 of this chapter.

(B) Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(C) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(D) In the case of any notification made under this Section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable Federal or State law.

12A-5-10 ANALYTICAL REQUIREMENTS

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director or other parties approved by EPA.

12A-5-11 SAMPLE COLLECTION

(A) Samples collected to satisfy reporting requirements shall be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(B) Except as indicated in Section C and D below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple Grab Samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, Grab Samples may be required to show compliance with Instantaneous Limits.

(C) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(D) For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 12A-5-1 and 12A-5-3 [40 CFR 403.12(b) and (d)], a minimum of four (4) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by paragraphs Section 12A-5-4 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of Grab Samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

12A-5-12 DATE OF RECEIPT OF REPORTS

Written reports shall be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

12A-5-13 RECORDKEEPING

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established under Section

12A-2-H(3). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the Director.

12A-5-14 CERTIFICATION STATEMENTS

(A) Certification of Permit Applications, User Reports and Initial Monitoring Waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with Section 12A-4-12; users submitting baseline monitoring reports under Section 12A-5-1B(5); users submitting reports on compliance with the Categorical Pretreatment Standard deadlines under Section 12A-5-3; users submitting periodic compliance reports required by Section 12A-5-4A–D, and users submitting an initial request to forego sampling of a pollutant on the basis of Section 12A-5-4B(4)**.** The following certification statement must be signed by an Authorized Representative as defined in Section 12A-1-3:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(B) Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User by the Director pursuant to 12A-1-3 must annually submit the following certification statement signed in accordance with the signatory requirements in 12A-1-3. This certification must accompany an alternative report required by the Director:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 CFR ____, I certify that, to the best of my knowledge and belief, during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____

[facility name] met the definition of a Non-Significant Categorical Industrial User as described in 12A-1-3;

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

_____

_____

(C) Certification of Pollutants Not Present. Users that have an approved monitoring waiver based on Section 12A-5-4B must certify on each report with the following statement that there has been no increase in the pollutant in its waste stream due to activities of the user.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best

of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 12A-5-4A.

Article 12A-6
COMPLIANCE MONITORING

Section:

12A-6-1 Right of Entry; Inspection and Sampling
12A-6-2 Search Warrants

12A-6-1 RIGHT OF ENTRY; INSPECTION AND SAMPLING

(A) The Director, upon presentation of credentials, shall have the right of entry to, upon, or through the facilities of any User to determine whether the User is complying with all requirements of this chapter and any individual wastewater discharge permit, other permit or order. Users shall allow the Director ready access to all parts of the facilities for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where a User has security measures in force which require proper identification and clearance before entry into its facilities, the User shall make necessary arrangements with its staff so that, upon presentation of credentials, the Director shall be permitted to enter for the purposes for exercising all inspection and review authorities under this chapter.

(2) The Director shall have the right to set up on the User's property, and/or require the User to permit installation of the City equipment at the User's expense, of such devices as determined necessary by the Director to conduct sampling and/or metering of the User's operations.

(3) Unreasonable delays in allowing the Director access to the User's premises shall be a violation of this chapter.

(B) Monitoring Facilities

(1) The Director may require the User to install monitoring equipment on the User's property as determined necessary by the Director, at the User's expense. This monitoring facility shall be of a design or configuration and location approved by the Director and may include wastewater flow measurement equipment, automatic flow-proportional sampling equipment and automatic wastewater analysis and data recording equipment.

(2) The facility's sampling and monitoring equipment shall be maintained at all times in a clean, safe and proper operating condition. All devices used to measure wastewater flow and quality shall be calibrated per manufacturer specifications to ensure their accuracy. Proof of the most recent calibrations shall be maintained by the User and provided to the City when requested.

(3) User shall maintain their facilities to ensure the City staff have safe and easy access and ample room in or near the monitoring facility to perform independent monitoring activities and allow for accurate sampling and preparation of samples and inspection. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the User.

(C) Digital Images

Digital images may be used to document conditions observed during inspections and investigations and sampling. Digital image means any photograph or video taken using a digital camera or device, including the audio portion of the video. Inspections and sampling are conducted to evaluate a user for the purpose of gathering information to determine if the user is in compliance with applicable environmental requirements. Inspections and sampling may also assess a regulated entity's ability to maintain compliance. Standard Operating Procedures for the taking, use and storage of Digital Images shall be made available to the user.

(D) The user has the following rights during any inspection by an authorized employee of the Water Services Department:

(1) IU may accompany the City inspector on the premises (except during confidential interviews).
(2) In accordance with the City of Goodyear Code, Chapter 12A, the City may charge an annual inspection amount and assess a re-inspection fee. Refer to the most current USER FEE schedule for the dollar amount.

□ FOG fees	Annual Inspection	Re-Inspection
□ WDP fees	Annual Inspection	Re-Inspection

(3) IU has the right to make copies of any original document(s) taken from the premises by the City inspector during the inspection if the City is permitted by law to take the original document(s).
(4) IU has the right to have a "split" or "duplicate" of any samples taken during the inspection, but only if the split or duplicate would not prohibit an analysis from being conducted or render an analysis inconclusive.
(5) IU has a right to receive a copy of any analysis performed on samples taken during the inspection.
(6) The City inspector will advise anyone if conversations or interviews are being recorded.
(7) The City inspector will inform all interviewees that statements provided during the interview may be included in the inspection
(8) That the IU has the right to appeal final City decisions in accordance with the City of Goodyear Code Chapter 12A and any applicable State law provisions.
(9) That actions taken to correct deficiencies which have been identified during the inspection and noted in the inspection report are not appealable actions.

12A-6-2 SEARCH WARRANTS

(A) If Director or their designee has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Director may seek issuance of an administrative search warrant from the Goodyear Municipal Court or other court of competent jurisdiction. Such warrant shall be served at reasonable hours by the Director or designee in the company of a uniformed police officer.

(B) Nothing in this section is intended to preclude the issuance of a criminal warrant in lieu of or in addition to a civil administrative warrant to conduct a criminal investigation of a violation of this chapter or any other lawful purpose.

(C) A warrant shall be executed and returned to the magistrate/judge who issued it within 10 days after its date. After the expiration of that time, the warrant shall unless executed be void.

Article 12A-7
Release of Information

Section

12A-7-1 Confidential Information
12A-7-2 Publication of Users in Significant Noncompliance

12A-7-1 CONFIDENTIAL INFORMATION

Information and data regarding a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, monitoring programs, and from the City's inspection and sampling activities, shall be available to the public without restriction and are subject to release pursuant to public records requests. When obtaining a permit, it is the responsibility of the User to clearly identify in writing to the Director those items the User believes would qualify as a trade secret or propriety information. The City will use reasonable efforts to inform the User of public records requests, for information the User has previously identified in writing to the Director as data involving trade secrets or propriety information, prior to the City releasing that information. It will then be the responsibility of the User to seek a court order to preclude disclosure. The City will not be legally responsible for the disclosure of information pursuant to federal or state law. Trade secrets or secret processes shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

12A-7-2 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The city shall publish annually, in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of the Users, which during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. For the purposes of this provision, a User is in significant noncompliance if its violation meets one or more of the following criteria:

(A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined by Section 12A-2;

(B) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by Section 12A-2 multiplied by the TRC [TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except PH];

(C) Any other discharge violation of a pretreatment standard or requirement as defined by Section 12A-2 (daily maximum, longer-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);

(D) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;

(E) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(G) Failure to accurately report non-compliance; or

(H) Any other violation or group of violations, which may include a violation of best management practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

Article 12A-8
Enforcement Response Plan

Section

12A-8-1 Enforcement Authority and Responsibilities
12A-8-2 Types of Violations
12A-8-3 Determining Enforcement Response
12A-8-4 Enforcement Actions
12A-8-5 Issuance of Notice of Violation
12A-8-6 Compliance Meetings
12A-8-7 Notice to Show Cause
12A-8-8 Administrative Orders
12A-8-9 Administrative Fines
12A-8-10 Termination or Suspension of Water or Wastewater Services
12A-8-11 Revocation of Permit
12A-8-12 User Appeal
12A-8-13 Civil Actions
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12A-8-15 Liability of User
12A-8-16 Judicial Proceedings
12A-8-17 Levels of Action
12A-8-18 Enforcement Response Guide
12A-8-19 Notices
12A-8-20 Emergency Suspensions
12A-8-21 Performance Bonds; Liability Insurance; Contract Award
12A-8-22 Enforcement Response Time Frame

12A-8-1 ENFORCEMENT AUTHORITY AND RESPONSIBILITIES

(A) The Enforcement Response Plan (ERP) outlines the procedures followed by City staff to identify, document, and respond to discharge violations in a manner appropriate to the nature of the violation. This ERP was developed in accordance with 40 CFR 403.8(f)(5); and Goodyear City Code 12A. In addition, the ERP describes the responsibilities of the City's Pretreatment Program staff and procedures.

(B) The Director shall enforce and provide consistency in the implementation, application, regulation and enforcement of this chapter; approve enforcement actions; oversee proceedings; assessment administrative fines and approve termination of water and wastewater services when appropriate.

(C) The City Attorney will provide consultation as requested by staff for issues needing legal clarification, regulatory issues, developments, changes, and for procuring search warrants; advise City staff during Administrative Enforcement matters as required; consult with the Program Manager on Administrative Enforcement actions. The attorney will act as lead on all referrals by staff for civil litigation or criminal

investigations or any other Judicial Enforcement on behalf of the City.

(D) The Programs Manager (PM) is responsible for the overall management of the Industrial Pretreatment Program (IPP). The PM position is responsible for ensuring that the IPP meets all Federal, State, and local pretreatment program requirements and the City Code Chapter 12A and policies. The PM has signatory responsibility for issuance of major enforcement actions; administrative complaints and presents the case at an administrative hearing if necessary. The PM prepares documentation and determination of noncompliance, drafts appropriate enforcement action, tracks enforcement follow-up and recommend closure for major enforcement actions, including emergency suspension and termination of service.

(E) The Pretreatment Supervisor (PS) is responsible for general oversight and planning of all activities pertaining to user compliance. The PS supervises the identification and characterization of any instances of noncompliance by users. This includes documentation of all inspection and monitoring activities necessary to determine the compliance or noncompliance of a discharger with Chapter 12A, Wastewater Discharge Permits (WDPs), and Federal Pretreatment Standards and Requirements. The PS is responsible for development of an overall inspection and sampling plan, including resource scheduling and standard operating procedures. The PS is responsible for the day-to- day oversight of staff implementation of all activities pertaining to user compliance, including administering user inspection and monitoring programs. As necessary, the PS reviews inspection reports, sampling, and quality control/quality assurance documentation prepared by staff prior to filing. The PS is responsible for ensuring that time frames for sampling, inspections, user compliance, and filing of documentation are achieved in accordance with the requirements of the ERP and IPP policies. The PS has signatory responsibility for issuance of minor level enforcement (warning letters and notices of violation) and intermediate level enforcement (administrative orders) and assists in documentation for assessment of administrative fines.

(F) The Sr. Industrial Pretreatment Inspector and Industrial Pretreatment Inspector (IPI) is responsible for conducting the user monitoring and inspection program. The IPI has routine, direct contact with the various users of the sewer system. The IPI prepares inspection reports for review and submittal to users. In addition, the IPI is responsible for implementing the general monitoring program in accordance with the IPP policies and required quality control procedures. The IPI reviews all sampling and monitoring data. Based on site inspections and review of user reports, sampling and monitoring data, the IPI is responsible for determining any instance of user noncompliance. The IPI drafts warning letters and notices of violation where appropriate. The IPI has signatory responsibility for issuance of minor level enforcement in the absence of the PS. All finalized enforcement actions will be documented and tracked into the IU's file.

(G) Levels of Responsibility for Instances of Noncompliance

The following table summarizes staff level of responsibility for enforcement actions. Staff is listed by level of signatory responsibility. It is acknowledged that subordinate staff will assist as necessary in compilation and documentation of noncompliance at all levels of enforcement.

Enforcement Level	Staff Responsible	Action
Minor (Informal Notice, Notice of Violation, Administrative Fine)	Industrial Pretreatment Inspector	Determine and document noncompliance: Draft appropriate enforcement action. Track enforcement follow-up and recommend closure. Sign and issue enforcement actions in PS absence.

	Pretreatment Supervisor	Sign and issue enforcement actions. Sign closure actions.
Intermediate (Administrative Order, Administrative Fine)	Industrial Pretreatment Inspector	Determine and document noncompliance: Draft appropriate enforcement action. Track enforcement follow-up and recommend closure.
	Pretreatment Supervisor	Oversee determination and documentation of noncompliance. Sign and issue enforcement actions. Sign closure actions.
Civil Action	Pretreatment Supervisor	Oversee determination and documentation of noncompliance. Draft administrative complaint and supportive documentation. Track enforcement follow-up and recommend closure.
	Programs Manager	Sign and issue administrative complaint. Sign closure actions. Present case at administrative hearing.
Major (Show Cause Order, Permit Revocation, Emergency Suspension, Termination, and Judicial Proceedings)	Programs Manager	Oversee determination and documentation of noncompliance. Draft appropriate enforcement action. Track enforcement follow-up and recommend closure. Prepare notification for actions involving termination of service.
	Director	Sign and issue show cause order or enforcement orders including emergency suspensions. Conduct show cause hearing or assign hearing officer. Refer to Counsel for noncompliance involving civil action. Refer to Attorney for noncompliance involving criminal prosecution.

12A-8-2 TYPES OF VIOLATIONS

(A) It is the intent of this enforcement section to provide adequate mechanisms to achieve a maximum degree of compliance with this Chapter by all Users in an equitable and consistent manner. These enforcement provisions apply to all classes of Users, to the extent such User violates any provision of this chapter or administrative order of the city pursuant to this chapter. To achieve compliance, the IPP will use a variety of enforcement mechanisms. The enforcement mechanisms set forth range from informal administrative action to formal criminal prosecution. Goodyear City Code Chapter 12A is in place to protect public health and safety, the City's investment in infrastructure, and the health and safety of personnel working in or on the publicly owned treatment works (POTW) and the environment.

(B) Types of violation include but are not limited to the following:

(1) Random Violation means any violation that exceeds a federal, Arizona, or local discharge limitation or compliance schedule. Random violations may include the first, second, or third offense and may not be severe or frequent enough to be classified as a Significant Noncompliance or a Pattern Violation.

(2) Pattern Violation or Pattern of Noncompliance means a series of random violations that is otherwise not considered to be Significant Noncompliance, but which contribute to a pattern of noncompliance when viewed over a moving 12-month period. Noncompliance for any two consecutive calendar quarters for the same parameter or four or more instances of noncompliance within a 6-month period would constitute a Pattern Violation.

(3) Significant Noncompliance (SNC) Violation means any violation meeting the definition at Section 12A-7-2. For Chronic Violations and TRC Violations as defined at Section 12A-7-2, the determination is on a rolling quarter basis.

12A-8-3 DETERMINING ENFORCEMENT RESPONSE

(A) The city enforcement procedures are based on three levels of enforcement responses: minor, intermediate, and major. Although the following procedures are primarily directed at permitted users, they can generally apply to any user violating city rules and regulations. User violations of monitoring, reporting, BMPs, and treatment requirements may range from relatively minor violations (e.g., late reports without effluent discharge limit violation) to major violations resulting in treatment plant or collection system upsets. Each instance of noncompliance is a violation and as such is reviewed and appropriately addressed. Selection of the appropriate enforcement response will relate to whether the violation is major or minor, and other factors such as the following:

(1) Duration and magnitude of Violation: The City will evaluate the duration of the violation to determine the possible effects that may have occurred in the POTW. The assessment of each specific violation should take into account the volume and strength or concentration of the discharge. Depending on the severity, even an isolated violation could threaten public health and the environment, damage public and private property, or threaten the operational integrity of the POTW.

(2) Compliance History of User: The compliance history of the facility is reviewed prior to selecting the appropriate level of enforcement response. More aggressive enforcement actions will be taken when a facility has frequent violations. Also considered is the effectiveness of previous enforcement actions.

(3) Good Faith Effort of User to resolve noncompliance: The City will consider the actions of the User, before and after a noncompliance incident, on a case-by-case basis to assess whether the User is acting in good faith.

(4) Degree of Harm Caused by Violation: Violations that have negative impacts to the POTW are typically considered major. For example, violations may result in significant increases in treatment costs; interfere with operations; harm POTW personnel or equipment, cause exceedances of the POTW permit limitations that result in fines from federal or Arizona agencies, or cause sludge contamination resulting in increased disposal costs. These violations may result in an administrative fine or civil fine and an Administrative Order to correct the violation, in addition to recovery of costs.

(5) Effect of the Violation on the receiving stream: One of the primary objectives of the Pretreatment Program is to prevent pollutants from “passing through” the POTW and entering the receiving waters. Consequently, any violation which results in environmental harm will be met with an escalated enforcement response.

Environmental harm will be presumed whenever an industry discharges a pollutant into the sanitary sewer which:

(a) Passes through the POTW
(b) Causes a violation of the POTW's NPDES permit limits
(c) Has a toxic effect on the receiving waters
(d) A minimum response to these types of violations would be an administrative order and referral to the attorney. In addition, the response should ensure the recovery from the IU of any NPDES fines and penalties paid by the POTW.
(e) Termination of service may also be considered for repeat violations.

The following table presents an outline of escalating levels of enforcement.

Enforcement Level	Response	Types
Minor	Informal Notice	Warning letter Correction notice Telephone call Meeting Provide educational material
	Notice of Violation	
	Administrative Fines	
Intermediate	Administrative Order	Modification of Wastewater discharge permits Compliance schedules Prohibited actions or obligations to cease and desist Other appropriate orders
	Administrative Fines	
Major	Emergency Suspension or termination of Permit	
	Hearings to show cause	
	Administrative Fines	
	Publication of SNC and imposition of fines	
	Terminate Service	
	Judicial Proceedings	Civil Criminal

Upon learning of a violation, the IPP will determine the appropriate enforcement action. All compliance notifications at the level of a notice of violation or above will be in writing but may be initiated by verbal notification. Notification of major, intermediate, and notice of violation enforcement actions will be delivered to the user by certified mail, return receipt requested, or in person.

12A-8-4 ENFORCEMENT ACTIONS

(A) Determination of the appropriate enforcement response to noncompliance will vary based on the type, nature and severity of the violation as provided in the Enforcement Response Table. Each act and each day of noncompliance will constitute a separate violation. Once noncompliance is determined, the Director will provide notice of the violation(s) to the User. The type of notification will vary depending on the severity of the violation.

(B) The Director may take the enforcement action determined appropriate by the Director. The Enforcement Response Table is a guideline and in no way is intended to limit the Director's ability to pursue any and all

action it deems appropriate and warranted based on the allegations and in whatever order is determined to be appropriate.

(1) Inspection and Monitoring
When permit or discharge violations occur, the Director may perform an inspection of the facility to assess if the violation has been corrected and if the facility is operating normally. Inspections are typically not scheduled ahead of time. The User must allow the Director access to the facility for sampling and inspection purposes within a reasonable timeframe from inspection notification.

(2) Informal Notification

(a) Verbal Warning Notice may be given for minor violations and involves the Director notifying the User that a violation(s) has occurred, identifies the required corrective action(s) and the time frame in which the corrective action(s) must be completed. The Director may also schedule additional inspections and/or sampling and/or any other action deemed appropriate by the Director.
(b) Written Warning Notice may be given for minor or moderate violations and involves the Director notifying the User that a violation(s) has occurred, identifies the required corrective action(s) and the time frame in which the correction action(s) must be completed. The Director may also schedule additional inspections and/or sampling and/or any other action deemed appropriate by the Director.
(c) All enforcement actions will be documented in writing and placed in the Users pretreatment file.

12A-8-5 ISSUANCE OF NOTICE OF VIOLATION

(A) Notice of Violation (NOV)

(1) Whenever the Pretreatment Supervisor (PS) finds a User is in violation of any section of this Chapter, any provision and/or condition of the User's permit, compliance or corrective action order, or any other pretreatment standard requirement, the PS may serve, or cause to be served, an NOV to the User.

(2) The NOV shall be served on the User and identify the nature of the alleged violation, the specific time frame for follow-up and/or other corrective actions and include a statement that additional enforcement actions may be pursued by the Director if corrective actions are not achieved as required.

(B) Response to Notification of Violation. The User shall respond in writing to the PS within the specified time frame, but not later than 15 calendar days from receipt of the NOV by the User. The response shall provide an explanation of the violation and the corrective action taken. Submission of this response in no way relieves the User of criminal and civil liability for any violations occurring before or after receipt of the NOV.

(C) The PS will determine the validity or appropriateness of the response. If the PS finds the response to be appropriate and satisfactory, the NOV will be closed and recorded in the facility file as part of compliance history. Closure to the NOV will be documented in writing and provided to the User. Closure of the NOV does not preclude further enforcement action.

(D) Deficient Response to Notification of Violation. Upon review of a response to a notification of violation the PS finds the response to be deficient, the PS may require additional information, issue an administrative fine, suspend or revoke the User's permit, order the User to cease discharge, and/or seek appropriate injunctive relief and criminal and/or civil penalties.

12A-8-6 COMPLIANCE MEETINGS

(A) Compliance Meetings are required when a pattern of noncompliance occurs or when previous violations appear to remain uncorrected, as evidenced by repeated violations. Compliance Meetings between the User and City Pretreatment Program staff are scheduled as a last step to ensure compliance before pursuing a more stringent intervention, such as an order to cease further discharge. During a Compliance Meeting, a Compliance Schedule is developed and tracked by the PS. Compliance Meetings may be scheduled when any one of the following occurs, and at such other times deemed appropriate by the Director:

(1) Discharge concentration exceeds five times the applicable discharge limit, or six times the applicable discharge limit for oil and grease;

(2) Discharge has a pH violation of less than 5.5 or greater than 10 for duration of 30 minutes or more and/or a volume greater than 100 gallons; or

(3) The IU has demonstrated a pattern of noncompliance as defined at 12A-8-2(B)(2).

(B) Compliance Schedule. When the discharger is found to be in noncompliance, a compliance schedule may be made part of an enforcement order. The deadline dates in the compliance schedule are enforceable requirements and are subject to the same enforcement actions and penalties as any other requirement of this Chapter.

12A-8-7 NOTICE TO SHOW CAUSE

(A) The Director may issue a Notice to Show Cause to a User which has violated, or continues to violate, any provision of this chapter; a wastewater discharge permit or compliance order; or any other pretreatment standard or requirement. A Notice to Show Cause meeting provides the User with the opportunity to present information to the Director about why a proposed enforcement action should not be taken. The notice will be served to the User specifying the time and place of the Show Cause meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken.

(B) The notice will be served personally or by registered or certified mail (return receipt requested) at least 10 calendar days prior to the meeting. A Show Cause meeting will not be a bar against, or prerequisite for, taking any other action against the User. The User may waive the right for a Show Cause meeting.

12A-8-8 ADMINISTRATIVE ORDERS

The Director may issue an Administrative Orders requiring a facility to achieve compliance with pretreatment standards or other requirements of the City Code. The Administrative Order will place a facility on an enforceable compliance schedule or require immediate compliance. The Director may require a facility to install treatment devices and/or to operate and maintain treatment equipment correctly.

12A-8-9 ADMINISTRATIVE FINES

(A) Administrative Fines for violations of any provision of this chapter; a wastewater discharge permit or compliance order; or any other pretreatment standard or requirement may be assessed by the Director. Each day that a violation continues may constitute a separate violation.

(B) When determining the amount of an Administrative Fine, other factors including but not limited to, compliance history, good faith by the User, nature and type of violation, and history of the User may be taken into account,

as well as any economic benefit resulting from the violation, the economic impact of the penalty on the violator, and the severity of the violation. See Table under Enforcement Response Guide 12A-8-18 for administrative fines that may be assessed based on the type and nature of the violation.

(C) Administrative fines differ from civil penalties in that they do not require court intervention unless the User contests the action or refuses to pay the fine. Administrative fines are punitive in nature and may not be related to a specific cost incurred by the city. Legal authority for administrative fines has been established in the Goodyear Sewer Use Chapter. The Director or his/her designee has the authority to assess fines at any time.

12A-8-10 TERMINATION OR SUSPENSION OF WATER OR WASTEWATER SERVICES

(A) The Director may issue a Cease-and-Desist Order to any User that has violated, or continues to violate, any provision of this chapter; a wastewater discharge permit or compliance order; or any other pretreatment standard or requirement. The Cease-and-Desist Order may direct the User to immediately comply with pretreatment standards and requirements and to take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(B) The Cease-and-Desist Order will be served personally or by registered or certified mail (return receipt requested). Issuance of a Cease-and-Desist Order will not be a bar against, or a prerequisite for, taking any other action against the User.

(C) Termination or suspension of water or wastewater service may be an appropriate response to facilities that have not complied with previous enforcement actions. This action is an administrative response, which may be implemented by the Director without initiating civil and/or criminal proceedings.

(D) Circumstances warranting termination or suspension of water or wastewater services include any of the following:

(1) Unpermitted discharge which results in violation of POTW permit(s);

(2) Any dangerous situation threatening human health, the environment, or the POTW;

(3) Discharges that exceed local limits or categorical discharge limits and/or result in damage to the environment or the POTW;

(4) Slug loads that result in interference, pass-through, or which may cause any dangerous situation threatening human health, the environment, or the POTW;

(5) Failure of the facility to notify the Director of effluent violations of slug load discharge, or recurring slug loads, that causes any dangerous situation threatening human health, the environment, or the POTW;

(6) Failure of the facility to install monitoring equipment as required by an Administrative Order; and/or

(7) Any major violation of permit conditions or administrative action accompanied by evidence of negligence or intentional violation.

(E) The process for terminating or suspending a User's water or wastewater service is described below:

(1) The User will be provided written notification of the proposed termination or suspension, the basis for the

proposed action and the date for the show cause meeting as provided in this chapter.

(2) If the User appears to have an actual or threatened discharge that may cause interference with the POTW or will present an imminent endangerment to the health, safety or welfare of any person or environment, or to the environment or pass-through interference, upset to, the POTW, the Director may immediately suspend any sewer service connection to the POTW without a Show Cause meeting. In such cases, the User will be entitled to a meeting within five calendar days of the suspension/termination.

(3) Service will be restored only after compliance has been achieved to the satisfaction of the Director.

(F) When notified of a termination or suspension of services, the user shall cease discharge of all industrial wastewater to the POTW.

(G) In the event of a failure of the User to comply voluntarily with the notification of service termination or suspension, the Director shall take such steps as necessary to insure compliance up to and including termination of service by court order or physical barrier.

(H) The Director shall, by written statement, reinstate the user's services upon proof of satisfactory compliance with all requirements of the notification of suspension/termination. Damages and costs incurred by the city, and administrative fee, in suspending, disconnecting and/or reconnecting the User shall be paid for by the user before reinstatement of services.

12A-8-11 REVOCATION OF PERMIT

(A) The Director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the Director in writing of significant changes to the wastewater prior to the change as required by this chapter.

(2) Failure to provide prior notification to the Director of changed conditions as required by this chapter.

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self monitoring reports and certification statements;

(5) Tampering with monitoring or sampling equipment or a pretreatment device;

(6) Refusing to allow the Director immediate access to the facility premises and records;

(7) Exceeding effluent limitations;

(8) Failure to pay fines, costs or fees;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey; or

(12) Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this chapter.

(B) Any user whose permit has been revoked shall immediately cease all discharge of any industrial wastewater to the POTW.

(C) Failure to Comply with Permit Revocation. In the event of a failure of the user to comply voluntarily with the notification of permit revocation, the Director shall take such steps as necessary to insure compliance.

(D) Resolution of Permit Revocation. Before any further discharge of industrial wastewater may be made by the User, the User must apply for and obtain a new permit for industrial wastewater discharge, pay all charges that would be required upon initial application, and pay all delinquent fees, charges and such other sums as the user may owe to the county. Administrative fee assessed by the director in revoking the permit and disconnecting/reconnecting the industrial sewer shall be paid for by the user before issuance of a new permit.

(E) Wastewater discharge permits shall be automatically revoked upon cessation of operations or in the case of a transfer of business ownership not made in compliance with Section 12A-4-6.

12A-8-12 USER APPEAL

An appeal may be made to the City Manager by filing a request with the City Clerk in the event that satisfactory resolution of Sections 12A-8-1, 12A-8-2, and 12A-8-3 is not agreed upon.

12A-8-13 CIVIL ACTIONS

(A) The Director has the authority to file a Civil Action against Users for violations of applicable pretreatment standards and seek injunctive relief, compliance, civil fines, and/or damages. Civil fines may be assessed in an amount up to $25,000 with a minimum of at least $1,000 per violation per day in accordance with A.R.S. §49-391. Filing Civil Actions is an appropriate enforcement response in the following situations:

(1) An emergency situation where injunctive relief is necessary to halt or prevent discharges which threaten human health, or the environment, or interfere with the POTW;

(2) When efforts to restore compliance through cooperation with the IU has failed and action is necessary to enforce Pretreatment Program requirements;

(3) To seek fines and other remedies in law, or equity, or statutory for violations;

(4) Any other situation deemed reasonable by the Director for the protection of the public health, safety, and welfare of the community, POTW, or the environment.

(B) In instances that require filing a Civil Action, the PS will collect all pertinent information sufficient to support the complaint, and provide the information to the City Attorney.

12A-8-14 CRIMINAL ACTIONS

(A) Any person found guilty of violating any provision of this chapter or a User Wastewater Discharge Permit condition or requirement shall be guilty of a Class 1 misdemeanor, punishable by a fine of at least $1,000 not to

exceed $2,500 for an individual and of at least $1,000 not to exceed $20,000 for an enterprise or by imprisonment for a period not to exceed six months, or by both fine and imprisonment. Each day that a violation continues shall be a separate offense.

(B) The City Attorney is authorized to seek criminal punishment for any person who violates pretreatment standards or any person who knowingly makes false statements in any report, application, record, or other document required by pretreatment regulations and City Code.

12A-8-15 LIABILITY OF USER

Any user who discharges, or causes the discharge of wastewaters which cause damage to the POTW, interference, pass-through, upset, or any other damages resulting in costs to the POTW shall be liable for all damages, costs, fees, fines and all other penalties resulting from or arising out of the user's actions.

12A-8-16 JUDICIAL PROCEEDINGS

(A) Initiation of Legal Action. Whenever the Director finds that a user has violated any of the provisions of this chapter, the Director may ask the City Attorney to take appropriate legal action. This legal action may include, among other things, the following:

(1) Prohibitive injunctions;

(2) Mandatory injunctions for corrective action and cleanup, or other equitable relief;

(3) Civil penalties in accordance with this chapter;

(4) Criminal penalties, including restitution. In addition to any other restitution deemed appropriate by the Court, the Court may order that the violator pay restitution to reimburse the City for the costs and expenses incurred by the City as a result of the violation, including but not limited to those resulting from the enforcement, testing, emergency response and cleanup activities.

(5) Recovery of civil damages, penalties, and costs to the POTW.

(B) Civil and Criminal Penalties for Violation.

(1) The civil penalties for violation of any provision of this chapter, any part of a permit written and issued in compliance with this chapter and/or any requirement of a notification of violation written and issued in compliance with this chapter, shall not exceed $25,000 for each violation. For continuing violations, each day may constitute a separate offense. In determining the amount of a civil penalty the following shall be taken into consideration:

(a) The seriousness of the violation.
(b) The economic benefit, if any, resulting from the violation.
(c) Any history of such violation.
(d) Any good faith efforts to comply with the applicable requirements.
(e) The economic impact of the penalty on the violator.
(f) Such other factors as justice may require.

(C) The civil penalties for non-submittal of reports, noncompliance with the reporting and/or application

requirements required in this chapter or permit, or failure to complete an increment of progress of a compliance schedule, shall not exceed $1,000 for each day in which the requirements are not fulfilled.

(D) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

(E) Any person who attempts to deceive a government agency by submitting documents to the agency or by making statements to a representative of the agency which they know to be false, or by destroying or concealing or refusing to deliver papers or records required by the agency to be kept for its information, is subject to prosecution for tampering with a public record, or fraudulent schemes and practices. Tampering with a public record and fraudulent schemes and practices are both felony violations pursuant to Arizona Revised Statutes.

(F) Any violation of any provision of this chapter, a wastewater discharge permit, or order issued hereunder, by any Person, are class 1 misdemeanors and may be pursued civilly and criminally subject to the penalties provided herein, Article 1-8, Chapter 18, A.R.S. § 49-391 and as provided by law. Each day any violation of any provision of this code or any chapter incorporated herein, or the failure to perform any act or duty required by this code or chapter incorporated herein, continues shall constitute a separate offense.

(G) The remedies provided for in this chapter are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the chapter. However, the Director has the discretion to take other action against any User which the Director deems to be appropriate under the circumstances. Further, the Director is empowered to take more than one enforcement action against any noncompliant User.

12A-8-17 LEVELS OF ACTION

(A) Enforcement of Judicial Action. A user's participation in any written or oral communication concerning violations will not exempt a User from formal enforcement or judicial action.

(B) Written Permission Requirement. A user seeking any modification of an enforcement requirement or other permission sought by a User from the Director must be in writing.

(C) Separate Actions. Any judicial proceedings initiated because of a violation of any section of this chapter shall not exempt a User from any judicial proceedings initiated because of a violation of any other provision of this chapter.

12A-8-18 ENFORCEMENT RESPONSE GUIDE

(A) The following table identifies violations and the general enforcement response options that may be taken by the Director that shall apply to all Industrial Users. The table is intended to be a reference only, and is not intended to identify all possible violations or limit the Director's response to a violation. At all times the Director retains the right to take any enforcement action, in response to an identified violation, which it deems appropriate including all civil and/or criminal actions available by law. All enforcement response options include the possible imposition of fees, fines, costs, reasonable attorney fees, court costs and any and all other expenses associated with inspection, and enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

(B) Enforcement Response Table

Violation	Nature of Violation	Enforcement Response Option	Administrative Fines
Un-Permitted Discharges			
Un-Permitted Discharge	User Aware Of Requirement; No Harm to the POTW Or Environment	Verbal Warning, Warning Notice, NOV With Permit Application Form, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring	Up to $1,000 per day per violation
	User Aware Of Requirement; Discharge Causes Harm to the POTW Or Environment	NOV, Resample Discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	Up to $10,000 per day per violation
	Failure To Comply; Discharge Continues After Notice By City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $25,000 per day per violation
Failure to Renew Permit	Permit Expired; No Application Submitted	NOV, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection	Up to $10,000 per day per violation
Discharge Limit Violations			
Exceedance of Local Limit, Permit Limit or Federal Standard	Random Violation; No Harm to POTW or Environment	Verbal Warning, Warning Notice, NOV, Resample discharge, Unannounced inspection, Unannounced City monitoring	
	Random violation; Discharge Caused Harm to POTW or Environment (SNC)	NOV, Resample discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	Up to $10,000 per day per violation
	Pattern Violation; No Harm to POTW or	NOV, Compliance Meeting, Show Cause Meeting,	Up to $10,000 per day per

	Environment	Administrative Order, Civil and/or Criminal Action	violation
	Pattern Violation; Discharge Caused Harm to POTW or Environment (SNC)	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit	Up to $10,000 per day per violation
	Pattern Violation with Knowledge, Intent or Negligence (SNC)	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit	Up to $25,000 per day per violation
Monitoring and Reporting Violations			
Reporting Violation	Report Improperly Signed or Certified	Verbal Warning, Warning Notice, NOV	
	Report Improperly Signed or Certified After Notification By City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	Up to $1,000 per day per violation
	Random Violation No Harm to POTW or Environment Report, Reported Less Than 30 Days Late	Verbal Warning, Warning Notice, NOV,	
		Unannounced inspection	
	Report late <= 5 days	Verbal Warning, Warning Notice, NOV	$50 per day
	Report late 6 - 29 days	NOV, Compliance Meeting	$100 per day
	Report late, 30 days or more	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	$500 per day
	Missing or Incomplete Information in Report	Verbal Warning, Warning Notice, NOV,	
	Failure to Correct Report with Missing or	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil	Up to $5,000 per day per violation

	Incomplete Information After Notification by City	and/or Criminal Action	
	Failure to Report Spill or Changed Discharge; No Harm to POTW or Environment	Verbal Warning, Warning Notice, NOV, Resample discharge, Unannounced inspection, Unannounced City monitoring,	Up to $1,000 per day per violation
	Failure to Report Spill or Changed Discharge; Discharge Caused Harm to POTW or Environment (SNC)	NOV, Resample discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	Up to $10,000 per day per violation
	Repeated Failure to Report Spills or Changed Discharge	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit	Up to $10,000 per day per violation
	Falsification of Information in Report	NOV, Show Cause Meeting, Administrative Order, Criminal and/or Civil Action, Terminate Sewer Connection, Revoke Permit	Up to $1,000 per day per violation
Failure to Monitor Correctly	Failure to Monitor All Pollutants as Required by Permit	Verbal Warning, Warning Notice, NOV	
	Pattern Violation or Evidence of Intent (SNC)	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil Action, Terminate Sewer Connection, Revoke Permit	Up to $5,000 per day per violation
Improper Sampling	Random Violation	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring	

	Pattern violation or Evidence of Intent (SNC)	NOV, Show Cause Meeting, Administrative Order, Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $5,000 per day per violation
Failure to Install Monitoring Equipment	Delay of 30 days or more after notification by City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $1,000 per day per violation
Compliance Schedules	Missed Compliance Deadline by Less Than 30 Days	Verbal Warning, Warning Notice, NOV	
	Missed Compliance Deadline by More Than 30 Days; USER Has Good Cause For Delay	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order	Up to $500 per day per violation
	Missed Compliance Deadline by More Than 30 Days; USER Does Not Have Good Cause For Delay (SNC)	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $1,000 per day per violation
	Pattern Violation or Violation of Schedule in Administrative Order	NOV, Show Cause Meeting, Administrative Order, Fines, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $5,000 per day per violation
Other Permit Violations			
Water Streams Diluted in Lieu of Treatment	Random Violation	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring,	
	Pattern Violation	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order,	Up to $5,000 per day per violation

		Fees/Fines, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	
Failure to Mitigate Noncompliance or Halt Production	Discharge Causes No Harm to POTW or Environment	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring,	Up to $1,000 per day per violation
	Discharge Causes Harm to POTW or Environment	NOV, Resample Discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	Up to $10,000 per day per violation
Failure to Properly Operate and Maintain Pretreatment Facility	Random Violation	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring	
	Pattern Violation	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $1,000 per day per violation
Violations Observed During Site Visit/Inspection			
Entry Denial	Entry denied or Consent Withdrawn; Copies of Records Denied	Warning Notice, NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $100 per day per violation
Illegal Discharge	Discharge Causes No Harm to POTW or Environment	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring	Up to $500 per day per violation

	Pattern Violation; No Harm to POTW or Environment	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order	Up to $1,000 per day per violation
	Discharge Causes Harm to POTW or Environment or There is Evidence of Intent or Negligence	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $10,000 per day per violation
Improper Sampling	Incorrect Location, Sample Type, or Collection Procedure	Verbal Warning, Warning Notice, NOV, Resample discharge	
Inadequate Record Keeping or Documentation	Files incomplete or Missing Information; Initial Violation	Verbal Warning, Warning Notice, NOV	
	Pattern Violation After Notice From City to Correct	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	Up to $5,000 per day per violation
Failure to Report Additional Monitoring	Inspector Finds additional Files/Records; Initial Violation	Verbal Warning, Warning Notice, NOV	
	Pattern Violation After Notice From City to Correct	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Administrative Fines, Civil Action, Terminate Sewer Connection, Revoke Permit	Up to $5,000 per day per violation

12A-8-19 NOTICES

Any notice required to be provided by any City staff under this chapter shall be in writing and served in person or by certified mail, return receipt requested. The notice shall be served upon an authorized representative, at the last address known to the director or the occupants or owners of record of property upon which the alleged violations occurred.

12A-8-20 EMERGENCY SUSPENSIONS

(A) The Director may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(B) Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the other proceeding initiated against the User preclude recommencing of the discharge.

(C) A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director.

(D) Nothing in this Section shall be interpreted as requiring a judicial proceeding or hearing prior to any emergency suspension under this section. For the purposes of this section, informal notice may mean either oral or written notice and does not mean actual notice.

12A-8-21 PERFORMANCE BONDS; LIABILITY INSURANCE; CONTRACT AWARD

(A) The Director may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, or order issued hereunder, or any other applicable federal, state, or local Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, letter of credit, cash, or other security device, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance.

(B) The Director may decline to issue or reissue a wastewater discharge to any Person who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, other permit or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the Person first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(C) Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Director.

12A-8-22 ENFORCEMENT RESPONSE TIME FRAME

(A) Enforcement responses to initial Pretreatment Program Violations will be initiated within thirty (30) days of discovery. Whenever use of an NOV as an enforcement response is selected, immediate issuance is allowed.

(B) When appropriate, follow-up inspections will occur within thirty (30) days of a due date specified in a Notice of

Violation.

(C) Follow-up escalated action for repeat or reoccurring offenses will be taken within thirty (30) days of discovery of the repeat or reoccurring offenses and may include additional Administrative Enforcement, including Administrative Orders, Administrative Fines, and or Judicial Enforcement.

(D) In emergency situations caused by Violations, including imminent danger to the public health, safety, or welfare, and endangerment to City personnel or the environment, the Water Services Director or his delegated representative may initiate enforcement responses, including without limitation:

(1) Issuance of cease-and-desist orders;

(2) Water or wastewater service termination;

(3) Revocation or termination of any permits issued by the Water Services Department.

Article 12A-9
AFFIRMATIVE DEFENSES FOR DISCHARGE VIOLATIONS

Sections:

12A-9-1 Upset
12A-9-2 Prohibited Discharge Standards
12A-9-3 Bypass

12A-9-1 UPSET

(A) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Standards if the requirements of subsection (B) of this section are met.

(B) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence all of the following:

(1) An upset occurred and the User can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The User has submitted the following information to the Director within 24 hours of becoming aware of the upset; if this information is provided orally, a written submission must be provided within five days:

(a) A description of the indirect discharge and cause of noncompliance;
(b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
(c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(C) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof by a preponderance of the evidence.

(D) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with a categorical Standards.

(E) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

12A-9-2 PROHIBITED DISCHARGE STANDARDS

(A) User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in Section 12A-2-1 of this chapter if the User can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

(1) A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

(2) No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its AZPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

12A-9-3 BYPASS

(A) A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (C) and (D) of this section.

(B) Bypass Notifications.

(1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Director, at least 10 days before the date of the bypass, if possible.

(2) A User shall submit oral notice to the Director of an unanticipated bypass that exceeds applicable Pretreatment Standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director may waive the written report on an individual basis if the oral report has been received within 24 hours.

(C) Bypass Conditions.

(1) Bypass is prohibited, and the Director may take an enforcement action against a User for a bypass, unless all of the following exist:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
(c) The User submitted notices as required under subsection (B) of this section.

(D) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it shall meet the three conditions listed in subsection (C)(1) of this section.

Article 12A-10
Miscellaneous Provisions

Section:

12A-10-1 Water and Sewer Service Severance
12A-10-2 Public Nuisances
12A-10-3 Pretreatment Charges and Fees
12A-10-4 Severability
12A-10-5 Conflicts

12A-10-1 WATER AND SEWER SERVICE SEVERANCE

Whenever a User has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other applicable federal, state, or local Pretreatment Standard or Requirement, water service and/or sewer service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated to the Director that it is able and will comply.

12A-10-2 PUBLIC NUISANCES

A violation of any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any person(s) creating a public nuisance shall be subject to the provisions of City Code governing such nuisances and shall be required to reimburse the City for any costs incurred in removing, abating, or remedying said nuisance.

12A-10-3 PRETREATMENT CHARGES AND FEES

(A) The City council by resolution may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program, which may include:

(B) Fees for wastewater discharge permit applications including but not limited to the following:

(1) Cost of processing applications;

(2) Initial application and annual permitting fees;

(3) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users;

(4) Fees for reviewing and responding to accidental discharge procedures;

(5) Fees for reviewing plans and inspection for construction;

(6) Fees for filing appeals; and

(7) Other fees as the City may deem appropriate to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the City.

12A-10-4 SEVERABILITY

If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

12A-10-5 CONFLICTS

All other chapters and parts of other chapters inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of the inconsistency or conflict.

ORDINANCE NO. 2023-1584

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 12A (SEWER PRETREATMENT) OF THE GOODYEAR CITY CODE TO AMEND AND REPLACE IN ITS ENTIRETY; PROVIDING FOR CORRECTIONS; SEVERABILITY; PENALTIES AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and Council of the City of Goodyear, have determined that the public health, safety, and welfare of the City of Goodyear and its citizens require certain amendments and additions to be made to Chapter 12A (Sewer Pretreatment) of the Goodyear City Code; and

WHEREAS, the Mayor and Council of the city of Goodyear, Arizona believe it is in the best interest of the City and its citizens to amend and replace Chapter 12A (Sewer Pretreatment) of the Goodyear City Code to provide updated definitions and local limits, and to change permit classifications.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. AMENDING CHAPTER 12A (SEWER PRETREATMENT) OF THE GOODYEAR CITY CODE

All Articles, Sections, and Subsections of Goodyear City Code, Chapter 12A (Sewer Pretreatment) are hereby amended and replaced in its entirety, as set forth in that certain document titled, “Amending Chapter 12A (Sewer Pretreatment) of the Goodyear City Code,” which is attached as Exhibit A to Resolution No. 2023-2338 and is declared a public record, three copies of which are on file with the City Clerk of the city of Goodyear and which is referred to, adopted, and made a part hereof as if fully set forth in the Ordinance.

SECTION 2. CORRECTIONS

The 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 3. 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 4. PENALTIES

Violations of any provisions of Chapter 12A are as follows:

12A-8-9 ADMINISTRATIVE FINES

(A) Administrative Fines for violations of any provision of this chapter; a wastewater discharge permit or compliance order; or any other pretreatment standard or requirement may be assessed by the Director. Each day that a violation continues may constitute a separate violation.

(B) When determining the amount of an Administrative Fine, other factors including but not limited to, compliance history, good faith by the User, nature and type of violation, and history of the User may be taken into account, as well as any economic benefit resulting from the violation, the economic impact of the penalty on the violator, and the severity of the violation. See Table under Enforcement Response Guide 12A-8-18 for administrative fines that may be assessed based on the type and nature of the violation.

(C) Administrative fines differ from civil penalties in that they do not require court intervention unless the User contests the action or refuses to pay the fine. Administrative fines are punitive in nature and may not be related to a specific cost incurred by the city. Legal authority for administrative fines has been established in the Goodyear Sewer Use Chapter. The Director or his/her designee has the authority to assess fines at any time.

12A-8-13 CIVIL ACTIONS

(A) The Director has the authority to file a Civil Action against Users for violations of applicable pretreatment standards and seek injunctive relief, compliance, civil fines, and/or damages. Civil fines may be assessed in an amount up to $25,000 with a minimum of at least $1,000 per violation per day in accordance with A.R.S. §49-391. Filing Civil Actions is an appropriate enforcement response in the following situations:

(1) An emergency situation where injunctive relief is necessary to halt or prevent discharges which threaten human health, or the environment, or interfere with the POTW;

(2) When efforts to restore compliance through cooperation with the IU has failed and action is necessary to enforce Pretreatment Program requirements;

(3) To seek fines and other remedies in law, or equity, or statutory for violations;

(4) Any other situation deemed reasonable by the Director for the protection of the public health, safety, and welfare of the community, POTW, or the environment.

(B) In instances that require filing a Civil Action, the PS will collect all pertinent information sufficient to support the complaint, and provide the information to the City Attorney.

12A-8-14 CRIMINAL ACTIONS

(A) Any person found guilty of violating any provision of this chapter or a User Wastewater Discharge Permit condition or requirement shall be guilty of a Class 1 misdemeanor, punishable by a fine of at least $1,000 not to exceed $2,500 for an individual and of at least $1,000 not to exceed $20,000 for an enterprise or by imprisonment for a period not to exceed six months, or by both fine and imprisonment. Each day that a violation continues shall be a separate offense.

(B) The City Attorney is authorized to seek criminal punishment for any person who violates pretreatment standards or any person who knowingly makes false statements in any report, application, record, or other document required by pretreatment regulations and City Code.

12A-8-15 LIABILITY OF USER

Any user who discharges, or causes the discharge of wastewaters which cause damage to the POTW, interference, pass-through, upset, or any other damages resulting in costs to the POTW shall be liable for all damages, costs, fees, fines and all other penalties resulting from or arising out of the user's actions.

12A-8-16 JUDICIAL PROCEEDINGS

(A) Initiation of Legal Action. Whenever the Director finds that a user has violated any of the provisions of this chapter, the Director may ask the City Attorney to take appropriate legal action. This legal action may include, among other things, the following:

(1) Prohibitive injunctions;

(2) Mandatory injunctions for corrective action and cleanup, or other equitable relief;

(3) Civil penalties in accordance with this chapter;

(4) Criminal penalties, including restitution. In addition to any other restitution deemed appropriate by the Court, the Court may order that the violator pay restitution to reimburse the City for the costs and expenses incurred by the City as a result of the violation, including but not limited to those resulting from the enforcement, testing, emergency response and cleanup activities.

(5) Recovery of civil damages, penalties, and costs to the POTW.

(B) Civil and Criminal Penalties for Violation.

(1) The civil penalties for violation of any provision of this chapter, any part of a permit written and issued in compliance with this chapter and/or any

requirement of a notification of violation written and issued in compliance with this chapter, shall not exceed $25,000 for each violation. For continuing violations, each day may constitute a separate offense. In determining the amount of a civil penalty the following shall be taken into consideration:

(a) The seriousness of the violation.
(b) The economic benefit, if any, resulting from the violation.
(c) Any history of such violation.
(d) Any good faith efforts to comply with the applicable requirements.
(e) The economic impact of the penalty on the violator.
(f) Such other factors as justice may require.

(C) The civil penalties for non-submittal of reports, noncompliance with the reporting and/or application requirements required in this chapter or permit, or failure to complete an increment of progress of a compliance schedule, shall not exceed $1,000 for each day in which the requirements are not fulfilled.

(D) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

(E) Any person who attempts to deceive a government agency by submitting documents to the agency or by making statements to a representative of the agency which they know to be false, or by destroying or concealing or refusing to deliver papers or records required by the agency to be kept for its information, is subject to prosecution for tampering with a public record, or fraudulent schemes and practices. Tampering with a public record and fraudulent schemes and practices are both felony violations pursuant to Arizona Revised Statutes.

(F) Any violation of any provision of this chapter, a wastewater discharge permit, or order issued hereunder, by any Person, are class 1 misdemeanors and may be pursued civilly and criminally subject to the penalties provided herein, Article 1-8, Chapter 18, A.R.S. § 49-391 and as provided by law. Each day any violation of any provision of this code or any chapter incorporated herein, or the failure to perform any act or duty required by this code or chapter incorporated herein, continues shall constitute a separate offense.

(G) The remedies provided for in this chapter are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the chapter. However, the Director has the discretion to take other action against any User which the Director deems to be appropriate under the circumstances. Further, the Director is empowered to take more than one enforcement action against any noncompliant User.

Violations of any provision of Chapter 12A are also subject to criminal and civil penalties available as provided in Article 1-8 and Chapter 18 of the Goodyear City Code.

SECTION 5. EFFECTIVE DATE

This ordinance shall become effective as prescribed by law. The provisions of any ordinance, regulation, or requirement of the City of Goodyear being amended by this Ordinance shall remain in full force and effect until the effective date of this Ordinance.

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:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

Article 12A-1
GENERAL PROVISIONS

Sections:

12A-1-1 Purpose and policy.
12A-1-2 Administration.
12A-1-3 Definitions.

§ 12A-1-1 Purpose and policy.

(A) This chapter sets forth uniform requirements for Users of Publicly Owned Treatment Works (POTW) for the City and enables the City to comply with State and Federal laws, including the Clean Water Act (33 U.S.C. § 1251 et seq.) and General Pretreatment Regulations (40 CFR § 403). The objectives of this chapter are to do the following:

(1) Prevent the introduction of pollutants into the POTW that will interfere with its operation;

(2) Prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;

(3) Protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(4) Promote reuse and recycling of industrial wastewater and sludge from the POTW; and

(5) Enable the City to comply with its Arizona Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

(B) This chapter shall apply to all Users of the POTW. This chapter authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. (Ord. 14-1290, passed 3-3-2014)

§ 12A-1-2 Administration.

Except as otherwise provided, the City Manager or their designee shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the City Manager may be delegated by the City Manager to a duly authorized City employee.

(Ord. 14-1290, passed 3-3-2014)

12A-1-3 ABBREVIATIONS AND DEFINITIONS

~~§ 12A-1-3 Definitions.~~

~~Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.~~

(A) The following abbreviations, when used in this chapter, shall have the designated meanings:

ADEQ –	ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
AZPDES –	ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM
BMP –	BEST MANAGEMENT PRACTICES
BMR –	BASELINE MONITORING REPORT
BOD –	BIOCHEMICAL OXYGEN DEMAND
CIU –	CATEGORICAL INDUSTRIAL USER
COD –	CHEMICAL OXYGEN DEMAND
DML –	DAILY MAXIMUM LIMIT
PS –	PRETREATMENT SUPERVISOR
EPA –	ENVIRONMENTAL PROTECTION AGENCY
ERP –	ENFORCEMENT RESPONSE PLAN
FOG –	FATS, OILS, AND GREASES
FSE –	FOOD SERVICE ESTABLISHMENT
GPD –	GALLONS PER DAY
IPI –	INDUSTRIAL PRETREATMENT INSPECTOR
IPP -	INDUSTRIAL PRETREATMENT PROGRAM
IPQ -	INDUSTRIAL PRETREATMENT QUESTIONNAIRE
IU –	INDUSTRIAL USER
MTCIU –	MIDDLE TIER CATEGORICAL INDUSTRIAL USER
MG/L –	MILLIGRAMS PER LITER
NAICS –	NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM
NOV –	NOTICE OF VIOLATION
NPDES –	NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
NSCIU –	NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USER
POTW –	PUBLICLY OWNED TREATMENT WORKS
SIC –	STANDARD INDUSTRIAL CLASSIFICATION CODE
SIU –	SIGNIFICANT INDUSTRIAL USER
SMR –	SELF-MONITORING REPORT

SNC – SIGNIFICANT NONCOMPLIANCE
SS – SUSPENDED SOLIDS
TRC – TECHNICAL REVIEW CRITERIA
TSS – TOTAL SUSPENDED SOLIDS
µG/L – MICROGRAMS PER LITER
WDP- WASTEWATER DISCHARGE PERMIT

(A) Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

ACT means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

ADMINISTRATIVE ORDERS means enforcement documents that direct Industrial Users to undertake, or to cease, specified activities; and may incorporate compliance schedules, timeframes, administrative fines, and termination of service orders.

ADMINISTRATIVE WARRANT means a warrant issued by the court which authorizes City staff to conduct an administrative search to ensure compliance with the provisions of this chapter and permits.

APPROVAL AUTHORITY means the State of Arizona Department of Environmental Quality (ADEQ) or Regional Administrator for Region IX of the U.S. EPA.

ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM (AZPDES) means the state program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment and bio-solids requirements under A.R.S. Title 49, Chapter 2, Article 3.1 and 18 A.A.C. 9 Articles 9 and 10.

AUTHORIZED OR DULY AUTHORIZED REPRESENTATIVE OF THE USER means the following:

(1) If the User is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager:

i. is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations~~,~~;

ii. ~~and~~ Is authorized to initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations;

iii. can ensure that the necessary systems are established or actions taken to gather complete and accurate information for wastewater discharge permit requirements; and

~~i.~~iv. Has been assigned or delegated ~~where~~ authority to sign documents has been ~~assigned or delegated to the manager in~~ accordance with corporate procedures.

(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in subsections (1) through (3) of this definition may designate a Duly Authorized Representative if

i. the authorization is in writing:

ii. the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and:

iii. the written authorization is submitted to the City ~~Manager~~.

If an authorization in this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section shall be submitted to the city prior to or together with any reports to be signed by an authorized representative.

BASELINE MONITORING REPORT (BMR) means a report submitted by ~~categorical industrial users~~CIU which indicates the compliance status of the ~~categorical industrial user~~CIU within an applicable categorical standard.

BEST MANAGEMENT PRACTICES (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices ~~and industry standards~~ to implement prohibitions identified in City Code and 40 CFR § 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. ~~BMPs also include alternative means, i.e. Management Plans, of complying with or in place of certain established categorical pretreatment standards and effluent limits. BMPs shall be subject to all requirements and enforcement actions contained in this chapter.~~

BIOCHEMICAL OXYGEN DEMAND (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

BLOWDOWN means the minimum discharge of re-circulating water for the purpose of discharging materials contained in the water, the further buildup of which would cause concentration in amounts exceeding established limits.

BYPASS means the intentional diversion of waste streams from any portion of a treatment facility.

CATEGORICAL INDUSTRIAL USER (CIU) means an Industrial User subject to national categorical pretreatment standards.

CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307 (B) and (C) of the ACT (33 U.S.C. § 1317) that apply to a specific category of Users and that appear in 40 C.F.R. Chapter I, Subchapter N, Parts 405-471.

CHEMICAL OXYGEN DEMAND (COD) means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

CITY means the City of Goodyear.

CITY MANAGER means the manager of the City of Goodyear or their designee.

CIVIL ACTION means order(s), hearing(s), or other action(s) to enforce the City Code and other local, federal, and Arizona regulations, including judicial proceedings; orders may include fines, damages, and injunctive relief and/or any other action or remedy available by law.

~~***CODE OF FEDERAL REGULATIONS (CFR)*** means Title 40 Code of Federal Regulations, Environmental Protection Agency regulations.~~

COMPLIANCE INSPECTION means inspection(s) to determine compliance status and identify practices that may lead to noncompliance; inspections may or may not be scheduled in advance.

COMPLIANCE MEETING means meeting with Industrial User to discuss the causes of noncompliance, corrective actions to achieve compliance, and time frames for implementation of corrective actions.

COMPLIANCE SCHEDULE

means a schedule of remedial measures included in a permit or an enforcement order, including a sequence of requirements (e.g. actions, operations, or milestone events), that lead to compliance with this chapter or the User's permit.

~~means the timetable for the implementation of corrective actions to be performed by the User to achieve consistent compliance.~~

COMPOSITE SAMPLE ~~means a combination of no fewer than eight individual samples obtained at equal time intervals for 24 hours or for the duration of the discharge, whichever is shorter. In the case of a batch discharge with a flow duration of less than 15 minutes, a single grab sample will meet the intent of a composite sample.~~

(1) A combination of individual samples obtained at regular intervals over a specified time period. The volume of each individual sample shall be either proportional to the flow rate during the sample period (flow-proportional composite) or constant and collected at equal time intervals during the composite period (time-proportional composite) as defined in the permit. Aliquots may be collected manually or automatically. Each sample aliquot must be at least 100 ml in volume unless collected using automatic self-purging sampling equipment.

(2) For volatile pollutants required to be combined for analysis, aliquots must be combined in the laboratory immediately before analysis. The volatile composite samples must be collected by flow proportional means; either the time interval between each aliquot or the volume of each aliquot must be proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot.

(3) If one day is defined as a 24-hour period other than a calendar day, the analytical result for the 24-hour period will be considered as the result for the calendar day in which the 24-hour period ends.

CONTROL AUTHORITY means the City of Goodyear.

CONSISTENT COMPLIANCE

means full compliance with all applicable pretreatment standards and reporting requirements during the most recent reporting year *(or most recent 12 month reporting period).*

~~means no more than one parameter in violation with value less than twice the most stringent limit; Industrial User is able to correct cause of violation and verify through testing within 30 days of identification of noncompliance.~~

CRIMINAL ACTION means order(s), hearing(s), or other action(s) to enforce the City Code and other local, federal, and Arizona law, including judicial proceedings, involving violations for criminal offenses; orders may include fines, damages, injunctive relief, prohibition, and imprisonment and/or any other action or remedy available by law.

DAILY DISCHARGE means the "discharge of a pollutant" measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurements, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

DAILY MAXIMUM or *DAILY MAXIMUM LIMIT* or *MAXIMUM DAILY DISCHARGE LIMITATION* means the highest allowable daily discharge.

~~***DAILY MAXIMUM*** means the arithmetic average of all effluent samples for a pollutant collected during a calendar day.~~

~~***DAILY MAXIMUM LIMIT (DML)*** means the maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.~~

DAY means calendar days unless otherwise specified in the text.

DIRECT DISCHARGE means the wastewater that goes directly into waters of the state (groundwater, streams, lakes, rivers, etc.) without treatment from a POTW. This includes through a storm sewer system that enters waters of the state, a ditch, or other conveyance.

DIRECTOR means Water Services Director who is ~~the person~~ authorized by the City Manager to administer, implement, and enforce the provisions of this chapter~~.~~, or other city personnel designated by the Director to act on their behalf under this chapter.

DISCHARGE means the introduction of pollutants into the POTW from any source.

~~means the intentional or unintentional release of substance into the POTW.~~

~~***DISCHARGE LIMIT*** means the limit on the amount of a regulated waste that is discharged to the POTW.~~

ENFORCEMENT RESPONSE PLAN (ERP) means a document which outlines procedures that the POTW will use to identify, track and respond to noncompliance of this chapter.

~~***ENTERPRISE*** means any corporation, partnership, association, labor union or other legal entity or any group of persons associated in fact although not a legal entity.~~

~~***ENVIRONMENTAL COMPLIANCE SUPERVISOR (ECS)*** means the supervisor of the City of Goodyear Environmental Quality Division of the Environmental Services Division.~~

ENVIRONMENTAL PROTECTION AGENCY (EPA) means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official. ~~of said agency.~~

EXISTING SOURCE means any source of discharge that is not a New Source or a new indirect discharger.

FATS, OILS, AND GREASES (FOG) means the category which requires regulation to control fats, oils and greases which includes FSEs, automotive repair, laundries, car washes, salon, barber/beauty shop that wash hair, medical clinic, etc.~~animal and plant derived~~ This includes substances that may solidify or become viscous between the temperatures of 32°F and 150°F (0°C to 65°C), and that separate from wastewater by gravity. ~~Any edible substance identified as grease per the most current EPA method as listed in 40 CFR § 136.3.~~

FOOD ~~PREPARATION~~ SERVICE ESTABLISHMENT~~S~~ means establishments that prepares or ~~use~~ serves food for consumption and discharges ~~preparation processes and that are regulated by the Health Department. These facilities include but are not limited to restaurants,~~ kitchen or food preparation wastewater including: ~~H~~hotel/m~~M~~otel kitchens, hospitals, school kitchens,

bars, factory cafeterias, clubs, delis, kiosks, tea rooms, snack bars, ice cream shops, fudge shops, food courts, coffee shops, cafeterias, diners and any other facility that in the City's determination shall require a grease trap or interceptor installation by virtue of its operations. This also includes any establishment that requires a county food service license.

~~deemed to produce fats, oils, and grease.~~

GOOD FAITH EFFORT means Industrial User's honest intention to achieve compliance and/or remedy noncompliance coupled by actions supporting this intention.

~~***GPD*** means gallons per day.~~

GRAB SAMPLE means a sample that is taken from a wastestream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

GREASE TRAP means a device for separating and retaining waterborne greases and grease complexes prior to the wastewater exiting the trap and entering the sanitary sewer collection and treatment system. Such traps are typically compact under-the-sink units that are near food preparation areas.

GREASE INTERCEPTOR means a structure or device designed for the purpose of removing and preventing fats, oils, and grease from entering the sanitary sewer collection system. These devices are often below-ground units in outside areas and are built as two or three chamber baffled tanks.

GUIDELINE means the City of Goodyear Waste ~~W~~water Discharge Permit Application Process Guideline which is found in the City of Goodyear Administrative Process Manual.

HAULER means a person who transports sanitary sewage, industrial wastewater, or sludge off-site by other than the POTW conveyance system.

HAZARDOUS SUBSTANCE means as provided in 40 CFR Part 300.5.

HAZARDOUS WASTE means as provided in 40 CFR Part 261.3.

INCONSISTENT COMPLIANCE

is the compliance status of a user not meeting the definition of *CONSISTENT COMPLIANCE* and not meeting the definition of *SIGNIFICANT NONCOMPLIANCE.*

~~means more than one parameter in violation, or any one parameter in violation with value exceeding twice the most stringent limit; Industrial User is able to correct the cause of the violation and verify through testing within 30 days of identification of noncompliance.~~

INDIRECT DISCHARGE means the introduction of pollutants into the POTW from any non-domestic source through a sanitary sewer or through a storm sewer.

INDUSTRIAL PRETREATMENT TECHNICIAN (IPT) means the City of Goodyear staff assigned to conduct compliance monitoring and facility inspections.

INDUSTRIAL USER (user or IU) means the nondomestic sewer user; a source of discharge into the POTW from a nondomestic source; a source of indirect discharge.

INDUSTRIAL WASTE means waste produced by Industrial User activity.

~~***INSPECTION*** means compliance inspection to determine compliance status and identify practices that may lead to noncompliance; inspections are typically not scheduled in advance.~~

INSTANTANEOUS LIMIT means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any ~~discrete~~ grab or ~~composited~~ composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

INTERFERENCE means the discharge that, alone or in conjunction with a discharge or discharges from other sources, that either:

(1) inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or

(2) ~~and therefore, is a~~ C~~c~~auses of a violation of the City of Goodyear's AZPDES permit or of the ~~prevention of~~prevents sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions and regulations (or more stringent state or local regulations) or permits issued there-under:

a. ~~, or any more stringent State or local regulations~~: section 405 of the Clean Water Act;
b. the Solid Waste Disposal Act (SWDA), and any regulations contained in any State Sludge Management Plan prepared pursuant to Subtitle D of the SDWA; ~~including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA);~~
c. the Clean Air Act;
d. the Toxic Substances Control Act; and
e. the Marine Protection, Research, and Sanctuaries Act.

LOCAL LIMIT means the specific discharge limits or BMPs applicable to Significant Industrial Users or other controlled industrial users of the City of Goodyear's developed and enforced by the City in accordance with 40 CFR 403 and any other applicable laws.

~~upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR § 403.5(a)(1) and (b).~~

MANHOLE means a structure of suitable design and construction to permit access to the sewer from the surface for inspection, control and maintenance ~~to the public sewer.~~.

~~***MANHOLE COVER*** is a removable plate forming the lid over the opening of a manhole, to prevent anyone or anything from falling in, and to keep out unauthorized persons and material.~~

MASS LIMITATION means regulatory limitations expressed in units of mass, e.g., pounds per day, as opposed to concentration, e.g., milligrams per liter.

MEDICAL WASTE means the isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, dialysis wastes, and marijuana, in any form, including but not limited to pharmaceutical drug and pharmaceutical waste.

~~***Mg/l*** means milligrams per liter.~~

MONITORING EQUIPMENT OR SAMPLING EQUIPMENT means equipment that is used for investigating, surveying and sampling wastewater sources in an effort to obtain information on the quality and quantity of wastewater flows.

MONTHLY AVERAGE means the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

MONTHLY AVERAGE LIMIT means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

NEW SOURCE means the following:

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to

such source if such Standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

~~The building, structure, facility, or installation totally replaces the process or production; or~~

~~(c) Equipment that causes the discharge of pollutants at an Existing Source; or~~

~~(a)~~(c) ~~1.~~ The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

2. Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)(b) or (c) of this section but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a New Source as defined under this subsection has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous onsite construction program

i. any placement, assembly, or installation of facilities or equipment; or

ii. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment, which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

NONCONTACT COOLING WATER means the water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) means the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy; formerly known as the Standard Industrial Classification System (SIC).

NOTICE OF VIOLATION (NOV) means the office notice of violation delivered to the Industrial User requiring a formal response and action.

NOTICE TO SHOW CAUSE means the official notice provided to the Industrial User of the meeting with the Director, or a duly authorized representative, to provide reasons why a proposed enforcement action should not occur.

~~***NPDES*** means the National Pollutant Discharge Elimination System.~~

~~***NSCIU*** means the Non-Significant Categorical Industrial User.~~

OPERATOR means a person who operates a business and therefore controls the operation and ~~indirect~~ discharge.

PASS THROUGH means the discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's AZPDES permit, including an increase in the magnitude or duration of a violation.

PERSON means any individual, partnership, co-partnership, firm, company, corporation, association, trust, estate, governmental entity, municipality, state or federal agency or any other legal entity; or their legal representatives, agents, assigns or employee thereof.

pH means the measure of the acidity or alkalinity of a solution, expressed in standard units.

~~***PHARMACEUTICAL DRUG*** means any form of medicine, medication, medicament, that can be loosely defined as any chemical substance intended for use in the medical diagnosis, cure, treatment, or prevention of disease.~~

PHARMACEUTICAL WASTE means any prescription drug or any nonprescription drug (legal or non legal substance) or any proprietary medicine, regardless of form, that is no longer suitable for its intended purpose or is otherwise being discarded.

~~***POLLUTION*** means man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of the water.~~

POLLUTANT means the dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g. pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor). This includes man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of the water.

POLLUTION PREVENTION means the steps taken to reduce or eliminate the creation of pollutant through:

(1) increased efficiency in the use of raw materials, energy, water, or other resources, or

(2) protection of resources through conservation. Examples include substitute nontoxic materials for toxic materials, reformulate products, modify manufacturing, and recycling.

PRETREATMENT means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

PRETREATMENT DEVICE means the equipment, material, or structures used to reduce, eliminate, or alter the nature of pollutant properties in wastewater before, or in lieu of, introducing pollutants into the POTW.

PRETREATMENT PROGRAM means the City's regulation of Industrial User discharges to the POTW.

~~means City's procedures developed to regulate and enforce Industrial User compliance with waste water discharges to the POTW.~~

PRETREATMENT REQUIREMENTS means any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

PRETREATMENT STANDARDS OR STANDARDS means the limitations of pollutant discharges to POTW promulgated by EPA in accordance with the Section 307 of the Clean Water Act, prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

PRETREATMENT SUPERVISOR (PS) means the supervisor of the City of Goodyear IPP.

PROHIBITED DISCHARGE STANDARDS OR PROHIBITED DISCHARGES means the absolute prohibitions against the discharge of certain substances as provided in this chapter.

PUBLICLY OWNED TREATMENT WORKS (POTW) means a treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

REPRESENTATIVE SAMPLE means a sample portion of material or wastestream that is as nearly identical in content and consistency as possible to the material or industrial wastewater being sampled.

~~***SAMPLING EQUIPMENT.*** See the definition of monitoring equipment.~~

~~***SANITARY SEWER SYSTEM*** means a City owned sewer system that carries liquid and waterborne waste from residential, commercial and industrial facilities and to which storm, surface and ground waters are not intentionally admitted.~~

SELF-MONITORING means the sampling and analyses performed by a ~~facility~~ User to determine compliance with a permit or other regulatory requirements.

SELF-MONITORING REPORT (SMR) means the report submitted by the User to provide compliance sample results to the City.

~~***SEPTAGE*** means an aerobic wastewater originating from a domestic source, be it from a residential, commercial, or industrial facility that is not hazardous waste and is compatible with the biological wastewater treatment plant process.~~

SEVERE PROPERTY DAMAGE means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

SEWAGE means human excrement and gray water (household showers, dishwashing operations, etc.).

SEWER SYSTEM means the complete municipal sewer system, including, sanitary sewer mains, manholes, lateral sewer lines, pipelines or conduits, pumping stations, forced mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting waters to an ultimate point for treatment or disposal.

~~***SEWAGE*** means human excrement and gray water (household showers, dishwashing operations, etc.).~~

SIGNIFICANT CHANGES means, but is not limited to, flow increases of 20% or greater, and the discharge of any previously unreported pollutant.

SIGNIFICANT INDUSTRIAL USER (SIU) means the following:

(1) An Industrial User subject to categorical Pretreatment Standards ~~under~~ 40 ~~CFR~~; or

(2) An Industrial User that:

(a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blow down wastewater); or
(b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
(c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

(3) *NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USER (NSCIU)* - The City may determine that an Industrial User subject to Categorical Pretreatment Standards is a non-significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 GPD of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically including in the pretreatment standard) and the following conditions are met:

(a) The Industrial User, prior to the City finding, has consistently complied with all applicable categorical pretreatment standards and requirement; and
(b) The Industrial User annually submits the certification statement prescribed in 40 C.F.R. § 403.12(Q), together with any additional information necessary to support the certification statement; and
(c) The Industrial User never discharges any untreated concentrate wastewater.

(4) Upon ~~a~~ finding that a User meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR § 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

~~***SIGNIFICANT NONCOMPLIANCE (SNC)*** means any violation of pretreatment requirements (limits, sampling, analysis, reporting and meeting compliance schedules) as defined in Section 12A-7-2 and 40 CFR § 123.45.~~

SLUG LOAD OR SLUG DISCHARGE means any discharge ~~at a flow rate or concentration, which could cause a violation of the prohibited discharge standards. A Slug Discharge~~ is any d~~D~~ischarge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

SOLID WASTE means any garbage, refuse, sludge from a treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or containing gaseous materials resulting from industrial, commercial, mining, and agricultural operations, and from community activities.

~~***SPILL PROTECTION FACILITIES*** means physical barrier which provides protection from accidental discharge or spill into the POTW of prohibited, hazardous, or other industrial wastewaters which are regulated through this chapter.~~

~~***STANDARD INDUSTRIAL CLASSIFICATION CODE (SIC)*** means a system for classifying industries by a four-digit code. The SIC code is being supplanted by the six-digit North American Industry Classification System (NAICS code).~~

STORM-WATER means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

~~***TECHNICAL REVIEW CRITERIA (TRC)*** means 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable criteria to determine exceedance. Value for biochemical oxygen demand (BOD), total suspended solids (TSS), oil and grease is 1.4 value for other parameters except pH is 1.2.~~

T~~ERMINATION OF SERVICE OR PERMIT REVOCATION~~ ~~means the notice delivered to the Industrial User of the City's intent to revoke the discharge permit or terminate service.~~

~~***TOTAL ORGANIC CARBON (TOC)*** means the measurement of organic (carbon based) contaminants in a water system.~~

TOTAL SUSPENDED SOLIDS (TSS) OR SUSPENDED SOLIDS (SS) means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

~~***TOXIC POLLUTANT*** means any pollutant listed as toxic under Section 307(a)(1) of the Clean Water Act (CWA) of 1977 as amended by the Water Quality Act (WQA) of 1987.~~

~~***µg/l*** means micrograms per liter.~~

UPSET means an exceptional incident in which there is unintentional and temporary noncompliance with discharge limits because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, and lack of preventive maintenance or careless or improper operation.

~~***VERBAL WARNING*** means the informal warning communicated to the Industrial User; associated violation is usually slight or within range of analytical error.~~

~~***VIOLATION*** means any failure of the User to comply with any provision of this Article. Violations include the following:~~

~~(1) ***RANDOM VIOLATION*** means any Violation that exceeds a federal, state or local discharge limitation or compliance schedule. Random violations may include the first, second, or third offense and may not be severe or frequent enough to be classified as a Significant Violation or a Pattern Violation.~~

~~(2) ***PATTERN VIOLATION*** means a series of random Violations (four or more) that is not severe or frequent to be classified as a Significant Violation, but which contribute to a pattern of noncompliance when viewed over a moving 12-month period. Four random violations occurring during a moving 12-month period would constitute a Pattern Violation.~~

~~(3) ***SIGNIFICANT VIOLATION*** means any Violation, which by its impact, severity, or frequency of occurrence presents a hazard or nuisance to the POTW, general public, or the environment.~~

~~***WARNING NOTICE*** means a written notice that a violation has occurred; directs the Industrial User to take actions to correct the violation but does not require a formal response.~~

WASTEWATER means the liquid and water carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

WASTEWATER DISCHARGE PERMIT means an authorization or equivalent control document issued by the City to Users discharging wastewater to the POW. The Permit may contain appropriate Pretreatment Standards and Requirements as set forth in this Chapter.

WASTEWATER SLUDGE means the solids or semisolids, residues, and precipitate separated from or created in wastewater.

~~***WASTEWATER TREATMENT PLANT OR TREATMENT PLANT*** means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste. (Ord. 14-1290, passed 3-3-2014)~~

The Goodyear Code of Ordinances is current through Ordinance 23-1572, passed April 10, 2023.

Disclaimer: The City Clerk's Office has the official version of the Goodyear Code of Ordinances. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: www.goodyearaz.gov
Code Publishing Company, A General Code Company

§ 12A-2-1 Prohibited discharge standards.

(A) (A) *General Prohibitions.* No person shall discharge or cause to be discharged to
(B) to the POTW any pollutant or wastewater which causes Pass Through or Interference.

any sewer, which directly or indirectly connects to the POTW, any storm water, swimming pool water, surface water, ground water, roof runoff, subsurface drainage, cooling water or industrial process waters, waste, pollutant or wastewater which may have an adverse or harmful effect on the POTW, POTW personnel or equipment, POTW effluent quality, public or private property; or which may otherwise endanger the public, the environment or create a public nuisance, or which exceed limitations as set by this chapter or the Director or cause the POTW to violate state or federal regulations or permits. Prohibited waste described in this chapter shall not be discharged to the POTW. Included within the prohibition set forth above, is the discharge of any wastes which adversely affect water reclamation, water reuse or sludge disposal or air quality. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other federal, state, or local Pretreatment Standards or Requirements. Pollutants, substances, or wastewater prohibited in this chapter shall not be processed or stored in such a manner that they could be discharged to the POTW. This provision applies unless otherwise permitted by rules and regulations promulgated by the Director.

(B) The Director, in determining the acceptability of specific waste, shall consider the nature of the waste and the adequacy and nature of the collection, treatment and disposal system available to accept the waste.

(C) *Specific Prohibitions.* No person shall introduce discharge or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Any wastewater pollutant that may be adverse or harmful to the POTW, POTW personnel, POTW equipment or POTW effluent quality including but not limited to:

(a) Any gasoline, benzene, naphtha, solvent, fuel oils, or any other liquids, solids, or gases which create or tend to create a fire or explosion hazard in the POTW, or to be injurious in any other way to the POTW, including, but not limited to, waste streams with a closed cup flash point of less than 140 degrees Fahrenheit;

(b) Any solids or viscous substances. or any waste that may precipitate, solidify, gel, polymerize, or become viscous under conditions normally found in the sewer system, or of such size or in such quantities that they caus~~of such size or in such quantities that they~~ may cause obstruction to flow in the sewer or be detrimental to POTW operations. Specifically, any solid waste not normally occurring in domestic waste that cannot pass through a 3/8 inch mesh screen These objectionable substances include, but are not limited to, asphalt, dead animals, ashes, sand, mud, straw, industrial process shavings, metal, glass, rags, feathers, grass clippings, tar, plastic resins, wood, blood, paunch manure, grease, bones, hair, fleshings, entrails, paper cups, paper dishes, milk cartons or other similar paper products, either whole or ground;

(c) Any amounts of petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that would cause or tend to cause interference or pass-through;

(d) Any biodegradable oils, fats and greases, such as lard, tallow, or vegetable oil, in concentrations or quantities which could cause obstruction of the POTW or interference with conveyance or treatment.; ~~> 50 mg/l;~~

(e) Any waste in such concentration or volume that is toxic to humans, animals, the local environment or to POTW treatment processes, or which causes interference, upset or pass-through at the POTW;

~~Any wastes containing a concentration in excess of the discharge limitations specified in this chapter or in any permit for the following parameters arsenic, BOD, cadmium, chromium, copper, cyanide, lead, mercury, oil and grease, selenium, silver, TKN, TSS or zinc;~~

(f) Any waste having a pH lower than 5.5 or greater than 10 standard units; or which causes incrustations or scale, or precipitates on sewer walls; or having any corrosive or detrimental characteristics that may cause injury to the POTW or service and maintenance personnel;

~~(f) Any waste in such concentration or volume that is toxic to humans, animals, the local environment or to biological wastewater treatment processes; which causes interference, upset or pass-through at the POTW;~~

(g) Any waste having a temperature of 140 Fahrenheit or higher at the discharge point, or which causes the POTW influent to exceed 104 degrees Fahrenheit;

~~Any waste having a pH lower than 5.5 or greater than 9.0 standard units; or which causes incrustations or scale, or precipitates on sewer walls; or having any corrosive or detrimental characteristics that may cause injury to the POTW or service and maintenance personnel;~~

~~1. Where a user is required by its permit to continuously monitor its pH discharge over a 30 day period, the user shall maintain the pH of such wastewater within the range set forth in its permit, except that excursions from the range are permitted subject to the following limitations:~~

~~a. The total time during which the pH values are outside the required range of pH values shall not exceed seven hours and 26 minutes in any calendar month, and~~

~~b. No individual excursion from the range of pH values shall exceed 60 minutes nor shall the pH be less than 5.0,~~

~~2. Where a user is required by its permit to continuously monitor its pH discharge on any representative day, the user shall maintain the pH of such wastewater within the range set forth in its permit, except that excursions from the range are permitted subject to the following limitations:~~

~~a. The total time during which the pH values are outside the required range of pH values shall not exceed 10% of the duration of discharge,~~

~~b. No individual excursion from the range of values shall exceed 45 minutes, nor shall the pH be less than 5.0,~~

~~3. For purposes of this section, an "excursion" is the time or volume of discharge, from when the range is exceeded until the discharge has returned to compliance;~~

(h) Any excessive amounts of chlorinated hydrocarbon or organic phosphorous type compounds;

~~Any waste having a temperature of 140 Fahrenheit or higher at the discharge point, or which causes the POTW influent to exceed 104 degrees Fahrenheit;~~

(i) Wastewater that imparts color that cannot be removed by the POTW treatment process, such as but not limited to, dye waste and vegetable tanning solutions.

(j) Any waste containing detergents, surface active agents, or other substances, which may cause excessive foaming in the sewerage system;

~~Any waste containing substances that may precipitate, solidify, gel, polymerize or become viscous under conditions normally found in the sewer system, which would include but is not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, grits such as brick, cement, onyx, carbide or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the POTW;~~

(k) Any sludge from water or wastewater treatment plants not owned and operated by the City. The Director may permit a User to discharge this substance upon a finding that the discharge will not adversely affect the operation of the POTW and the pollutant concentrations do not exceed those in the sludge produced by the POTW. No such permit shall be issued which would violate any other federal, state or local rule, regulation or standards;

(l) Any hazardous wastes discharged to any portion of the POTW by truck, rail or dedicated pipeline;

(m) Any trucked or hauled pollutants except at discharge points as designated by the Director;

(n) Any slug load;

(o) Industrial wastewater which may be dangerous to the public, the environment, or which creates a public nuisance, including, but not limited to:

(1) Any radioactive material wastes not in compliance with applicable federal or state regulations;

(2) Any waste containing toxic or poisonous solids, liquids or gases in such quantities that alone, or in combination with other waste substances, may create a hazard for humans, animals, or the local environment, interfere detrimentally with wastewater treatment processes, cause a public nuisance, or cause any condition requiring emergency response in the POTW;

(3) Any pollutants which can result in the formation or presence of toxic gases, vapors, or fumes within the POTW that may cause or tend to cause worker health and safety problems;

(4) Any strongly odorous waste or waste tending to create odors;

(5) Any industrial wastewater in such concentration or volume that may cause failure in the effluent toxicity testing;

(6) Any recognizable portions of the human anatomy.

~~) Any waste producing discoloration of treatment plant effluent;~~

~~(l) Any solid waste, other than that normally found in domestic wastewater, that is not ground sufficiently to pass through a 3/8-inch mesh screen;~~

~~(m) Any waste containing detergents, surface active agents, or other substances, which may cause excessive foaming in the sewerage system;~~

~~(n) Any sludge from water or wastewater treatment plants not owned and operated by the City. The Director may permit a user to discharge this substance upon a finding that the discharge will not adversely affect the operation of the POTW and the pollutant concentration does not exceed those in the sludge produced by the POTW.~~

~~No such permit shall be issued which would violate any other federal, state or local rule, regulation or standards;~~

~~(o) Any hazardous wastes discharged to any portion of the POTW by truck, rail or dedicated pipeline;~~

(p) Industrial wastewater that may cause POTW hydraulic loading problems or may dilute the biological strength of the POTW's headworks, including, but not limited to:

(1) Any water added for the purpose of diluting wastes which would otherwise exceed maximum concentration limits;
(2) Any rainwater, storm water runoff, groundwater, street drainage, roof drainage, yard drainage, water from yard fountains, ponds, swimming pools, lawn sprays or uncontaminated water except where prior approval for such discharge is given by the Director;
(3) Any deionized water, steam condensate or distilled water in amounts which cause problems with hydraulic loading;
(4) Any blow down or bleed water from heating, ventilating, air conditioning or other evaporative systems exceeding one-third of the makeup water in a 24-hour period;
(5) Any single pass cooling or heating water.

~~(p) Any trucked or hauled pollutants except at discharge points as designated by the Director;~~

(q) Any of the following prohibited substances:

4,4'-DDE
4,4'-DDT
Aldrin
BHC-Alpha
BHC-Beta
BHC-Gamma (Lindane)
Heptachlor
Heptachlor Epoxide
Polychlorinated Biphenyl Compounds (PCBs)

~~(q) Any slug load;~~

(r) Any water or waste exceeding the limits for the following substances that are expressed in the total form except if otherwise stated;

Instantaneous Maximum Allowable Discharge Limitations	
Substance	Limitation
Benzene	35 (ug/l)
Chloroform	2000 (ug/l)

~~(r) Industrial wastewater which may be dangerous to the public, the environment, or which creates a public nuisance, including, but not limited to:~~

~~1. Any excessive quantities of radioactive material wastes;~~

~~2. Any waste containing toxic or poisonous solids, liquids or gases in such quantities that alone, or in combination with other waste substances, may create a hazard for humans, animals, or the local environment, interfere detrimentally with wastewater treatment processes, cause a public nuisance, or cause any condition requiring emergency response in the POTW;~~

~~3. Any pollutants which can result in the formation or presence of toxic gases, vapors, or fumes within the POTW that may cause or tend to cause worker health and safety problems;~~

~~4. Any strongly odorous waste or waste tending to create odors;~~

~~5. Any industrial wastewater in such concentration or volume that may cause failure in the effluent toxicity testing;~~

~~6. Any recognizable portions of the human anatomy.~~

~~(s) Industrial wastewater that may cause dilution or POTW hydraulic loading problems, including, but not limited to:~~

~~1. Any water added for the purpose of diluting wastes which would otherwise exceed maximum concentration limits;~~

2. Any rainwater, storm water runoff, groundwater, street drainage, roof drainage, yard drainage, water from yard fountains, ponds, swimming pools, lawn sprays or uncontaminated water except where prior approval for such discharge is given by the Director;

3. Any deionized water, steam condensate or distilled water in amounts which cause problems with hydraulic loading;

4. Any blow down or bleed water from heating, ventilating, air conditioning or other evaporative systems exceeding one-third of the makeup water in a 24 hour period;

5. Any single pass cooling or heating water.

(t) Any of the following prohibited substances:

4,4'-DDE

4,4'-DDT

Aldrin

BHC-Alpha

BHC-Beta

BHC-Gamma (Lindane)

Heptachlor

Heptachlor Epoxide

Polyclorinated Biphenyl

~~Compounds (PCBs)~~

~~(u) Any water or waste exceeding the limits for the following substances that are expressed in the total form except if otherwise stated;~~

~~Instantaneous Maximum Allowable Discharge Limitations~~	
~~Substance~~	~~Limitation~~
~~Benzene~~	~~35 (µg/l)~~
~~Chloroform~~	~~2000 (µg/l)~~

~~(v) A five day biochemical oxygen demand (B.O.D.) greater than 300 parts per million by weight;~~

~~(w) Containing more than 350 parts per million by weight of suspended solids; and/or~~

~~(x) An average daily flow of greater than 2% of the average daily sewage flow of the City.~~ ~~(Ord. 14-1290, passed 3-3-2014)~~

§ 12A-2-2 Preliminary pretreatment.

(A) (A) *Required.* Where necessary in the opinion of the City, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to the provisions in this Chapter.

~~(1) Reduce the B.O.D. to 300 parts per million and the total suspended solids to 350 parts per million by weight;~~

~~(2) Reduce objectionable characteristics or constituents to within the maximum limits provided for in Section~~ **Error! Hyperlink reference not valid.**~~12-5-3;~~

~~(3) Control the quantities and rates of discharge of such waters or wastes.~~

(B) *Approval.* Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for all approval from state and local government. No construction of such facilities shall be commenced until such approvals are obtained in writing.

(1) Users shall submit to the IPP detailed drawings for review of existing or proposed construction of pretreatment facilities, spill containment facilities and monitoring or metering facilities. Users shall not begin construction of the proposed facility without prior approval of the IPP. The IPP's review or approval of the drawings shall in no way relieve the User of any future responsibility for modifying the facilities or procedures to meet the requirements of this chapter.

(2) All drawings shall include the following:

(a) North arrow;
(b) Scale size;
(c) User name and address;
(d) Drawing name and drawing number
(e) Date drawn or revised
(f) Name of draftsman and name of person approving drawing

(3) The IPP may require drawings to scale or schematic drawings depicting the manufacturing process (waste generating sources), spill containment, pretreatment facilities, and/or monitoring and metering facilities.

(4) The IPP shall require the drawings be prepared, signed, and sealed by a registered Arizona engineer.

(C) *Maintenance of Facilities.* Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense. (Ord. 14-1290, passed 3-3-2014)

§ 12A-2-3 INDUSTRIAL MONITORING FACILITIES REQUIREMENTS ~~Manholes.~~

(A) When required by the City, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable monitoring facilities~~control manhole~~ in the building sewer to facilitate observation and sampling of wastes. Such ~~manhole~~facilities, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the City and section 12A-6-1. The ~~manhole~~ monitoring facilities shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

(B) All tests and analyses of the characteristics of waters and wastes~~,~~ shall be determined in accordance with section 12A-5-10 and shall be determined at the monitoring facilities provided for in this section.

~~to which reference is made in Sections~~ **Error! Hyperlink reference not valid.**~~12-5-1,~~ **Error! Hyperlink reference not valid.**~~12-5-3~~ ~~and~~ **Error! Hyperlink reference not valid.**~~12-5-4, shall be determined in accordance with Standard Methods for the Examination of Water and Sewage and shall be determined at the control manhole provided for in this section or upon suitable samples taken at such control manhole.~~

(C) ~~Manhole~~ Monitoring inspection fees and costs for sampling and analysis of industrial wastewater shall be charged to the customer in addition to regular sewer charges. (Ord. 14-1290, passed 3-3-2014)

§ 12A-2-4 Special agreements with industrial concerns.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment to the City from the industrial user. (Ord. 14-1290, passed 3-3-2014)

§ 12A-2-5 National categorical pretreatment standards.

(A) Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

(1) Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City may impose equivalent concentration or mass limits in accordance with 40 CFR § 403.6(c).

(2) A user may obtain a variance from a categorical pretreatment standard, pursuant to the procedural and substantive provisions in 40 CFR § 403.13.

(3) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director shall impose an alternate limit using the combined waste stream formula in 40 CFR § 403.6(e).

(4) A user may obtain a net/gross adjustment to a categorical standard in accordance with 40 CFR § 403.15. (Ord. 14-1290, passed 3-3-2014)

§ 12A-2-6 Local limits.

(A) The City is authorized to establish local limits pursuant to 40 CFR § 403.5(c).

(B) All persons owning or operating facilities or engaged in activities that will or may reasonably be expected to result in pollutants entering the City sanitary sewer system or affecting the sanitary sewer system or affecting the POTW shall undertake all practicable best management practices identified by the Director to minimize the discharge of pollutants. Such measures shall include the requirements imposed by this chapter, any applicable NPDES or AZPDES permits, and any written guidelines promulgated for general use by the Director.

(C) The Director shall have the authority to:

(1) Establish limitations for ~~individual~~ industrial users ~~or classes of users~~ for various pollutants, materials, waters, or wastes that can be accepted into the sanitary sewer system;

(2) Specify those pollutants, materials, waters, or wastes that are prohibited from entering the sanitary sewer system;

(3) Identify those pollutants, materials, waters, or wastes that shall be controlled with best management practices; and

(4) Require ~~individual~~ industriall users or classes of users to implement best management practices for any pollutant.

(D) All affected ~~individual~~ industrial users or classes of users shall comply with the prohibitions and effluent limitations established pursuant to this article, and with any best management practices required by the Director.

(E) All prohibitions and effluent limitations so established and all best management practices identified by the Director will be placed on file with the City Clerk and become effective and enforceable on the 31st day after the date of filing.

(F) The following pollutant concentration limitations are established to protect the POTW against pass through and interference. Each User who discharges an indirect discharge to the POTW and is is required to obtain a Wastewater Discharge Permit pursuant to Article12A-4 of this Chapter ~~designated as a Significant Industrial User by the Director~~ shall not discharge or cause to be

discharged at any entry point to the POTW any wastewater containing in excess of the following daily maximum limits as set forth below:

Parameter(1)	~~Maximum Allowable Industrial Loading (pounds per day)~~	Daily Maximum Limit (milligrams per liter)	Sample Type
Arsenic	~~0.083~~	0.250~~0.020~~	Composite
Boron		3.94	Composite
Cadmium	~~0.068~~	0.049~~0.016~~	Composite
~~Chromium (Total)~~	~~Reserved~~	~~User Specific Limitation~~	~~Composite~~
Copper	~~2.5~~	1.668~~User Specific Limitation~~	~~Grab~~Composite
Cyanide	~~0.35~~	1.29~~0.081~~	~~Composite~~Grab
Lead	~~0.22~~	~~0.051~~0.291	Composite
Mercury	~~0.0084~~	0.172~~0.0020~~	Composite
Molybdenum	~~17~~	444~~Reserved~~	Composite
Nickel	~~2.5~~	0.714~~Reserved~~	Composite
~~Selenium~~	~~Reserved~~	~~User Specific Limitation~~	~~Composite~~

Parameter(1)	~~Maximum Allowable Industrial Loading (pounds per day)~~	Daily Maximum Limit (milligrams per liter)	Sample Type
Silver	~~11~~	10.4~~2.5~~	Composite
Zinc	~~10~~	1.81~~2.4~~	Composite
BOD	~~880~~	~~1100~~640	Composite
TSS	~~540~~	951~~680~~	Composite
~~TKN~~Total Nitrogen	~~320~~	~~User Specific Limitation~~140	Composite~~Grab~~

(1) All concentrations for metallic substances are for total metals unless indicated otherwise.
(2) The Director may impose or allow mass limitations in addition to or in place of the concentration-based limitations above.
(3) The Director is authorized to calculate User-Specific Limits based on available capacity of the POTW served by the Industrial user on a case-by-case situation based on factors such as User flows, pollutant discharge levels, POTW performance, and regulatory controls imposed upon the POTW.

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations are expressed in the "total" form unless indicated otherwise. The Director may impose mass limitations in addition to, or in place of, the concentration-based limitations above. The Director may incorporate local limits on a user-specified basis into wastewater discharge permits where necessary to meet maximum allowable industrial loading limitations. Any violation of a user-specific pollutant limitation as may be set for by the city shall subject the user to the same administrative actions, penalties, and enforcement actions as would be available for any other violations of these regulations.

(G) When the Director determines that a user is discharging to the POTW any wastes not previously identified as prohibited in such amounts as may interfere with, pass through, or upset the operation of the POTW, the Director shall:

(1) advise the user of the impact of the contribution on the POTW;

(2) develop a discharge limitation for such user to correct the interference with the POTW; and (

3) require the user to comply with the discharge limits. (Ord. 14-1290, passed 3-3-2014)

(A) User Specific limits

(1) The Director is authorized to calculate User-Specific Limits based on available capacity of the treatment plant served by the Industrial user.

(2) Available capacity is affected by several factors such as Industrial user flows, pollutant discharge levels, POTW performance, and regulatory controls imposed upon the POTW.

(3) The Director may develop Best Management Practices (BMPs), by chapter or in individual wastewater discharge permits to implement Local Limits and the requirements of Section 12A-2.

The following Pollutants may be incorporated into the WDP by the Director as User Specific Limitations or as Alert Levels.

Parameter	Daily Maximum Limit (milligrams per liter)	Alert Level (milligrams per liter)	Sample Type
Chromium (Total)	User Specific Limitation	2.23	Composite
TDS	User Specific Limitation	1400	Composite
Selenium	User Specific Limitation	0.028	Composite

§ 12A-2-7 Medical waste.

(A) *Regulated Facilities.* Hospitals, clinics, offices of medical doctors, mortuaries, morgues and long-term health care:

(1) May discharge through a grinder installation after Director approval. The installation will have inlet size and design features suitable for its intended use and so constructed that all particles pass through a maximum 3/8-inch mesh opening;

(2) Shall not discharge to the sewer by any means:

(a) Solid wastes generated in the rooms of patients who are isolated because of a suspected or diagnosed communicable disease;

(b) Recognizable portions of the human anatomy;

(c) Equipment, instruments, utensils and other materials of a disposable nature that may harbor or transmit pathogenic organisms and that are used in the rooms of

patients having a suspected or diagnosed communicable disease which by the nature of the disease is required to be isolated by public health agencies;

(d) Wastes excluded by other provisions of this chapter.

(B) *Limit of Authority.* Nothing in this section shall be construed to limit the authority of the Arizona Department of Environmental Quality or other federal, state or local authorities to define waste as being medical waste and, with the concurrence of the Director, to require that the waste will not be discharged to the POTW. (Ord. 14-1290, passed 3-3-2014)

§ 12A-2-8 Right of revision.

The City of Goodyear reserves the right to establish, by ordinance or in wastewater discharge permits more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this chapter. (Ord. 14-1290, passed 3-3-2014)

§ 12A-2-9 Dilution of Discharge.

No User, intentionally, deliberately, knowingly or willingly, shall ever increase the use of process water, or in any way attempt to dilute a discharge. ~~No User shall ever increase the use of process water, or in any way attempt to dilute a discharge,~~ as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable City Pretreatment Standard or Requirement. The Director may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or requirements or in other cases when the imposition of mass limitations is appropriate. (Ord. 14-1290, passed 3-3-2014)

§ 12A-2-10 Tampering; Sewer system; Manhole.

(A) No person, without lawful authority, shall do any of the following:

(1) Knowingly open, remove or interfere with or tamper with, in any manner, any manhole, manhole cover or public sewer of the City.

(2) Knowingly divert or direct, or cause to divert or direct, the flow of water or any other fluid or foreign substances into manholes installed in the sanitary sewer system of the City;

(3) Knowingly enter into any City owned manhole or deposit any substance, regardless of form, into a City owned manhole or City sewer system.

(B) A violation of this section is subject to all civil and criminal penalties provided in Article 1-8 and Chapter 18 of the Goodyear City Code. (Ord. 14-1290, passed 3-3-2014)

§ 12A-2-11 Tampering; Monitoring/sampling equipment, pretreatment device.

(A) No person, without lawful authority, shall knowingly do any of the following:

(1) Alter, interfere, modify, remove, damage, or destroy any public or privately owned monitoring or sampling equipment, or any part of the monitoring or sampling equipment, in a manner that could improperly modify the readings, analysis or operation of the monitoring or sampling equipment.

(2) Alter, bypass, or reroute the discharge or flow of wastewater in a manner that could improperly modify the readings, analysis or operation of the monitoring or sampling equipment.

(3) Alter, modify, tamper, damage, destroy or bypass a pretreatment device in a matter that could improperly modify the readings, analysis or operation of a pretreatment device.

(B) A violation of this section is subject to all civil and criminal penalties provided in Article 1-8 and Chapter 18 of the Goodyear City Code. (Ord. 14-1290, passed 3-3-2014)

§ 12A-3-1 Pretreatment facilities.

(A) Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions provided in this Article within the time limitations specified by EPA, the State, or the City, whichever is more stringent. Any facilities and equipment necessary for compliance shall be provided, operated, and maintained at the User's sole expense.

(B) User shall provide detailed plans describing its wastewater treatment facilities, equipment and operating procedures to the Director for review. This requirement applies to both initial approval and any subsequent modifications. The plans must be accepted and approved by the

City prior to commencing construction or installation of the facilities or equipment. The approval of the plans and inspection of construction shall not relieve the owner from complying with, and achieving, discharge limitations set forth in this chapter. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a Discharge acceptable to the City under the provisions of this chapter.

(C) The process for plan submission, approval and denial shall be in accordance with the procedures and timeframes outlined in the City of Goodyear Administrative Process Manual.
(Ord. 14-1290, passed 3-3-2014)

§ 12A-3-2 Additional pretreatment measures.

(A) The Director may require Users to restrict their discharge, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be determined necessary by the Director to protect the POTW and determine the User's compliance with the requirements of this chapter.

(B) The Director may require any person discharging into the POTW to install and maintain, on their property and at their sole expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(C) The Director may require Users, which includes food preparation facilities, to install grease, lint, sand/oil interceptors, oil/water separators, hair or grease trap(s) as needed for the proper handling of wastewater containing excessive amounts of fats, oils, grease, lint or sand; except that such interceptors or traps shall not be required for residential users. Requirements for the proper handling of fats, oils, grease, lint, sand and solids in wastewater are as follows:

(1) Grease interceptors and grease traps shall be required, installed, and maintained as specified in this article for the sizing and cleaning of interceptors and traps for the food preparation establishments.

(2) Lint, sand/oil interceptors and oil/water separators shall be installed in compliance with the City code.

(3) All interceptors, separators and traps shall be of the type and capacity approved by the Director and shall be located to be easily accessible for cleaning and inspection. Interceptors, separators and traps shall be inspected, cleaned, and repaired regularly by the user at the user's expense. The User shall keep records of all cleaning, repair and maintenance for at least three years. Such records shall be readily available for inspection by the Director upon request at no expense to the City.

(4) The User shall be responsible for reimbursing the City for any and all expenses, costs, and penalty fees and fines for the cleanup of any sanitary sewer overflow from the Sewer System as a result, directly or indirectly, of the User actions.

(D) The method for determining the size of traps or interceptors is the drainage fixture unit value. The minimum size for all interceptors is a capacity of 500 gallons and the maximum size for all interceptors is a capacity of 2,500 gallons. Interceptors must be constructed with at least two chambers. Sizing for all traps is a minimum of a 50 gallon per minute, 100 pound capacity with the flow control valve installed in a manner that provides access at all times. The appropriate size for interceptors and traps is determined as follows:

(1) *Interceptor Sizing.* The interceptor shall be sized using the drainage fixture-unit value as defined in the following table. Using the drain outlet or trap size, these sizes are converted to discharge rates on the basis that one fixture-unit equals 7.5 gpm.

Fixture Outlet or Trap Size (Inches)	**Drainage Fixture-Unit Value**	**Gpm Equivalent**
1 1/4	1	7.5
1 1/2	2	15.0
2	3	22.0
2 1/2	4	30.0
3	5	37.5

Fixture Outlet or Trap Size (Inches)	Drainage Fixture-Unit Value	Gpm Equivalent
4	6	45.0
Floor Drains (All Sizes)	2	15.0
Dishwashers	Double Size	

(2) *Calculating Interceptor Size.* Formula to calculate the size of the interceptor is:

(a) Determine total fixture-unit value by multiplying fixture type count by drainage value;
(b) Total all values;
(c) Determine total flow by multiplying total value by flow rate of three gpm;
(d) Multiply total flow by 12; and
(e) Round up to the next nearest size interceptor.

(3) *Requirements for Interceptors.* The interceptor shall be:

(a) A minimum of 500-gallon capacity, two chamber concrete container (fiber glass and/or other type material must be approved by the Director);
(b) When calculated to have a capacity of 750 gallons or more, the interceptor must have three chambers, each with a manway;
(c) Constructed with inlet piping with a 90-degree elbow and minimum of an 18 inch down spout;
(d) Constructed with outlet piping with a tee connection and a threaded cover with a minimum of an 18 inch down spout;
(e) Installed with a two-way clean-out within five feet before and five feet after the interceptor; and
(f) Constructed with the appropriate traffic rated cover. The cover(s) must not be marked with any wording indicating it is owned by the City of Goodyear.
(g) Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gas tight and watertight.
(h) Lockable shut off valves shall be provided between interceptors and service taps into sewer mains where required by rules and regulations promulgated by the Director.

(4) *Grease Trap Installation and Sizing.* Grease traps are allowed only when there are four or fewer than four fixtures used for food preparation. Any facility installing a dishwasher shall install a grease interceptor. For the purpose of sizing a grease trap, a fixture means the entire unit, e.g., a three-compartment sink is considered one unit. Grease traps must be installed as follows:

(a) A grease trap shall be installed whenever a three-compartment sink is required by Maricopa County;
(b) The minimum size grease trap to be installed shall be rated no smaller than 50 gallon-per-minute with a 100-pound grease capacity; and
(c) A flow restriction valve shall be installed upstream of the grease trap and vented properly. If placed below floor level the flow restriction valve must be installed in a manner which allows for inspection and maintenance.

(E) Except for residential sources, users shall not install or replace equipment designed to convert garbage or solid waste into liquefied waste and introduce such waste into the POTW by means of a garbage grinder/disposal. Garbage and solid waste shall be disposed of as provided in Article 10-1 of the Goodyear City Code.

(F) All grease traps, oil, sand, and grease interceptors shall be pumped out or cleaned out completely at least once every 180 days, or more frequently as required by the City, unless otherwise authorized in writing by the administrator.

(G) Administrative and penalty fees and costs will be assessed by the City for the inspections and tracking compliance with this subsection. (Ord. 14-1290, passed 3-3-2014)

§ 12A-3-3 Accidental discharge/slug discharge control plans.

(A) The Director shall evaluate whether each SIU needs an accidental discharge and/or slug discharge control plan or other action to control Slug Discharges. The Director may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Director may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the Director of any accidental or Slug Discharge, as required by this chapter; and

(4) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response. (Ord. 14-1290, passed 3-3-2014)

§ 12A-4-1

WASTEWATER DISCHARGER INFORMATION REQUIREMENTS

~~Wastewater analysis.~~

(A) It shall be unlawful for any person to connect, discharge or cause to be discharged any industrial wastewater directly or indirectly to the POTW without first obtaining Director approval.

(B) When requested by the Director, a user shall submit information on the nature and characteristics of its wastewater within 45 days of the request. The Director is authorized to prepare a form for this purpose and may periodically require users to update this information. All tests and analyses of the characteristics of water and wastewater shall be determined in accordance with approved laboratory procedures as that term is defined at Section 12A-5-10 of this chapter.

~~When requested by the Director, a User must submit information on the nature and characteristics of its wastewater within 45 calendar days of the request to the Director. The Director is authorized to prepare a form for this purpose and may periodically require Users to update this information. (Ord. 14-1290, passed 3-3-2014)~~

12A-4-2 WASTEWATER DISCHARGE PERMIT CLASSIFICATIONS

(A) The Director is authorized to issue the following types of Industrial user Permits:

(1) Class I Permits shall be issued to Significant Industrial users (SIUs).

(2) Class II Permits may be issued to High Strength Users who are not otherwise required to obtain a Permit. A High Strength User is one whose discharge of process wastewater contains an average of 135 pounds or

more per discharge day of the sum of BOD, TSS and TN.

(3) Class III Permits may be issued to a Zero Process SIU or to a User meeting the definition of NSCIU in Section 12A-1-3.

~~§ 12A-4-2 Wastewater discharge permit requirement.~~

~~(A) All Industrial Users are required to apply for a Wastewater Discharge permit in compliance with City Code and the Guideline, with an application fee set by resolution of council. If a permit is issued, payment of an annual permit discharge fee to be set by resolution of council may also be required. The Director is responsible for issuing all permits.~~

(B) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in this chapter. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

~~(B) No person shall discharge or cause to be discharged any industrial wastewater directly or indirectly to the POTW without first obtaining Director approval. Director approval is demonstrated by the issuance of an industrial wastewater discharge permit. The Director shall set requirements at least~~ as stringent as applicable state or federal rules, regulations or pretreatment standards.

~~(C) All Industrial Users discharging pursuant to this section shall comply with the following requirements:~~

~~(1) Comply with all applicable federal, state and local laws, rules, regulations and processes, including but not limited to the Act and the general pretreatment regulations (**Error! Hyperlink reference not valid.**40 Code of Federal Regulations Part **Error! Hyperlink reference not valid.**403);~~

~~(2) Not introduce pollutants into the POTW that will interfere with its operation and the efficient functioning of the system;~~

~~(3) Conduct periodic maintenance of the User's private system to ensure that it is cleaned and functioning properly according to federal, state and local law, rules, and regulations;~~

~~(4) Take all necessary actions to prevent an overflow of sewage from the User's private System. Should an overflow occur, the User shall be responsible, at its sole expense, to clean and properly sanitize any area that could create a public health hazard; and~~

~~(5) Notify the Director immediately by phone if a sewage overflow enters the public right-of-way or the property of another.~~

(D~~) No Industrial User shall discharge wastewater into the POTW without first obtaining authorization to discharge wastewater from the Director, except that Industrial Users that have properly filed a timely and complete application may continue to discharge during the application process as provided in the Guidelines. This exception will not be available for applications after January 1, 2014.~~

~~(E) The Director may require other Users to obtain wastewater discharge permits as necessary to carry out the purposes of this Article.~~

~~(F) Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state Pretreatment Standards or Requirements or with any other requirements of federal, state, and local law.~~

~~(G) A separate permit may be required for each connection to the POTW. Any User required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain a new permit prior to the beginning or recommencing of such discharge.~~

~~(H) The Director may require a separate permit from each tenant as well as the owner or manager of any multi-tenant property, including, but not limited to: shopping centers, medical centers, and industrial or commercial parks.~~ ~~(Ord. 14-1290, passed 3-3-2014)~~

12A-4-3 WASTEWATER DISCHARGE PERMIT REQUIREMENT

(A) Any User meeting the definition of Significant Industrial user and or potential to meet permit classifications per 12A-4-2 is required to apply for a Wastewater Discharge permit in compliance with City Code with an application fee set by resolution of council. The Director is responsible for issuing all permits.

(B) No person shall discharge or cause to be discharged any industrial wastewater directly or indirectly to the POTW without first obtaining Director approval. The Director shall set requirements at least as stringent as applicable state or federal rules, regulations or pretreatment standards.

(C) All Industrial users discharging pursuant to this section shall comply with the following requirements:

(1) Comply with all applicable federal, state and local laws, rules, regulations and processes, including but not limited to the Act and the general pretreatment regulations (40 Code of Federal Regulations Part 403);

(2) Not introduce pollutants into the POTW that will interfere with its operation and the efficient functioning of the system;

(3) Conduct periodic maintenance of the User's treatment and monitoring facilities to ensure that it is cleaned and functioning properly according to federal, state and local law, rules, and regulations;

(4) Take all necessary actions to prevent an overflow of sewage from the User's treatment and monitoring facilities. Should an overflow occur, the User shall be responsible, at its sole expense, to clean and properly sanitize any area that could create a public health hazard; and

(5) Notify the IPP primary contact immediately by phone and at IPP.goodyearaz.gov if a sewage overflow enters the public right-of-way or the property of another.

(D) No Significant Industrial user shall discharge wastewater into the POTW without first obtaining a permit or form of authorization from the Director to discharge wastewater.

(E) The Director may require other Users to obtain wastewater discharge permits as necessary to carry out the purposes of this Chapter.

(F) Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state Pretreatment Standards or Requirements or with any other requirements of federal, state, and local law.

(G) A separate permit may be required for each connection to the POTW. Any User required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW shall obtain a new permit prior to the beginning or recommencing of such discharge.

(H) The Director may require a separate permit from each tenant as well as the owner or manager of any multi-tenant property, including, but not limited to: shopping centers, medical centers, and industrial or commercial parks.

(I) Any failure to complete the required questionnaire, apply for and obtain a required permit, or violate the terms and conditions of a wastewater discharge permit shall be deemed violations of this chapter and subject the User to enforcement actions pursuant to Section 12A-8 of this chapter.

(J) Any User planning to discharge non-domestic wastewater into the sewer system and POTW, shall first complete either an Industrial Pretreatment Questionnaire form (if they do not expect a permit is needed) or a permit application. Any User identified by the pretreatment program through the IPQ as needing a permit shall file a permit application. Applications for wastewater discharge permits, in accordance with this chapter, shall be filed at least ninety (90) days prior to the desired date of discharge, and the discharge permit obtained prior to commencing discharge.

~~§ 12A-4-3 Wastewater discharge permit duration.~~

~~A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years or period of use, at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire. (Ord. 14-1290, passed 3-3-2014)~~

12A-4-4 WASTEWATER DISCHARGE PERMIT APPLICATION CONTENTS

(A) All Users required to obtain an individual wastewater discharge permit shall submit a permit application on a form approved by the Director. The Director may require Users to submit all or some of the following information as part of a permit application:

(1) Identifying Information.

(a) The name and address of the facility, including the name of the operator and owner.

(b) Contact information, description of activities, facilities, and plant production processes on the premises

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations.

(a) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications (SIC) / North American Industry Classification System Code (NAICS) of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
(b) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
(c) Number and type of employees, hours of operation, and proposed or actual hours of operation;
(d) Type and amount of raw materials processed (average and maximum per day);
(e) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit;

(6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 12A-2-5(3) (40 CFR 403.6(e)).

(7) Measurement of Pollutants.

(a) The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Director, of regulated pollutants in the discharge from each regulated process.
(c) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
(d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 12A-5-10 of this chapter. Where the Standard requires compliance with a

BMP or pollution prevention alternative, the User shall submit documentation as required by the Director or the applicable Standards to determine compliance with the Standard.

(e) Sampling shall be performed in accordance with procedures set out in Section 12A-5-11 of this chapter.

(8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 12A-5-4B [40 CFR 403.12(e)(2)] .

(9) Any other information as may be deemed necessary by the Director to evaluate the permit application.

(B) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

~~(a)~~ **~~§ 12A-4-4 Wastewater discharge permit contents.~~**

~~(A) A Wastewater Discharge Permit shall include such conditions as are deemed reasonably necessary by the Director to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.~~

~~(1) Wastewater discharge permits must contain:~~

~~(a) Issuance date, effective date and expiration date;~~

~~(b) A statement that wastewater discharge permits are nontransferable or assignable;~~

~~(c) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;~~

~~(d) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;~~

~~(e) A statement of applicable civil penalties for violation of Pretreatment Standards and Requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.~~

~~(B) Wastewater discharge permits may contain, but need not be limited to, the following conditions:~~

~~(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;~~

~~(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;~~

~~(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;~~

~~(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;~~

~~(5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;~~

~~(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;~~

~~(7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the wastewater discharge permit; and~~

~~(8) Other conditions as deemed appropriate by the Director to ensure compliance with this chapter, and State and Federal laws, rules, regulations and guidelines.~~ ~~(Ord. 14-1290, passed 3-3-2014)~~

12A-4-5 WASTEWATER DISCHARGE PERMIT DURATION

A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years or period of use, at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

~~12A-4-5 Wastewater discharge permit appeals.~~

~~(A) Any person, including the User, may appeal to the Director to reconsider the terms of a wastewater discharge permit within 20 calendar days of its issuance.~~

~~(1) Failure to submit a petition within 20 calendar days of the issuance of the discharge permit will constitute a waiver of the right to petition for review.~~

~~(2) In the petition, the appealing party must identify the wastewater discharge permit provisions objected to, the basis for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.~~

~~(3) The effectiveness of the wastewater discharge permit shall not be stayed pending an appeal.~~

~~(4) Upon receipt of a petition for review, the Director has 30 calendar days to respond to the petition and may modify, revoke, or affirm the wastewater discharge permit in whole or part. If the Director fails to act within 30 calendar days from receipt of the petition, the petition will be deemed to be denied. The Director's decision, including all denials, shall be considered final administrative action for purposes of judicial review.~~ ~~(Ord. 14-1290, passed 3-3-2014)~~

12A-4-6 WASTEWATER DISCHARGE PERMIT CONTENTS

(A) A Wastewater Discharge Permit shall include such conditions as are deemed reasonably necessary by the Director to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1) Wastewater discharge permits shall contain:

(a) A statement that indicates Wastewater Discharge Permit issuance date, effective date and expiration date;
(b) A statement that the Wastewater Discharge Permit is non-transferable without prior notification to and approval from the city in accordance with Section 12A-4-9 of this chapter, and provisions for furnishing the new owner or operator with a copy of the existing Wastewater Discharge Permit;
(c) Effluent Limits including applicable Pretreatment Standards and Requirements, including any special state requirements and best management practices (BMPs);
(d) Self-monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, and record-keeping requirements. These requirements shall include an identification of

pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law, and reporting of BMP implementation;

(e) A statement of applicable civil penalties for violation of Pretreatment Standards and Requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(f) Requirement for immediate notification to Pretreatment Program where self-monitoring results indicate non-compliance;

(g) Requirement to report a bypass or upset of a Pretreatment Facility;

(h) Requirement to report immediately to the Pretreatment Program all discharges, including slug loadings, that could cause problems to the POTW;

(i) Requirement for the SIU who reports non-compliance to repeat the sampling and analysis and submit results to the IPP within 30 days after becoming aware of the violation.

(j) A statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.

(k) Requirements to control slug discharges, if determined by the POTW to be necessary.

(B) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the wastewater discharge permit; and

(8) Any special agreements the Director chooses to continue or develop between the Pretreatment Program and User as set forth in 12A-2-4;

(9) Other conditions as deemed appropriate by the Director to ensure compliance with this chapter, and State and Federal laws, rules, regulations and guidelines.

§ 12A-4-6 Wastewater discharge permit modification.

(A) The Director may modify the wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised federal, state, or local Pretreatment Standards or Requirements;

(2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the issuance of the wastewater discharge permit;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, biosolids, or the receiving waters;

(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR § 403.13;

(8) To correct typographical or other errors in the wastewater discharge permit;

(9) Increased monitoring or reporting required as a result of enforcement activities. (Ord. 14-1290, passed 3-3-2014)

12A-4-7 WASTEWATER DISCHARGE PERMIT APPEALS

(A) Any person, including the User, may appeal to the Director to reconsider the terms of a wastewater discharge permit within 20 business days of its issuance.

(1) Failure to submit an appeal within 20 business days of the issuance of the discharge permit will constitute a waiver of the right to petition for review.

(2) In the petition, the appealing party must identify the wastewater discharge permit provisions objected to, the basis for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(3) The effectiveness of the wastewater discharge permit shall not be stayed pending an appeal.

(4) Upon receipt of a petition for review, the Director has 30 calendar days to respond to the petition and may modify, revoke, or affirm the wastewater discharge permit in whole or part. If the Director fails to act within 30 calendar days from receipt of the petition, the petition will be deemed to be denied. The Director's decision, including all denials, shall be considered final administrative action for purposes of judicial review.

~~§ 12A-4-7 Wastewater discharge permit transfer.~~

~~Wastewater Discharge Permits are not transferable or assignable. (Ord. 14-1290, passed 3-3-2014)~~

12A-4-8 WASTEWATER DISCHARGE PERMIT MODIFICATION

(A) A Wastewater Discharge Permit Modification may be initiated by the Director or by the Permitee. The Director may modify the wastewater discharge permit for good cause including, but not limited to, the following reasons:

(1) To incorporate any new or revised federal, state, or local Pretreatment Standards or Requirements;

(2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the issuance of the wastewater discharge permit;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, biosolids, or the receiving waters;

(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR § 403.13;

(8) To correct typographical or other errors in the wastewater discharge permit;

(9) Increased monitoring or reporting required as a result of enforcement activities.

§ 12A-4-8 Wastewater discharge permit renewal.

A User with an expiring wastewater discharge permit shall apply for the renewal of their wastewater discharge permit by submitting a completed permit application and any application and annual fee at least 90 days prior to the expiration of the User's existing wastewater discharge permit. (Ord. 14-1290, passed 3-3-2014)

12A-4-9 WASTEWATER DISCHARGE PERMIT TRANSFER

(A) Wastewater Discharge Permits may be transferred to a new owner and/or operator only if the Permittee gives at least 90 days advance notice to the Director and the Director approves the Wastewater Discharge Permit Transfer. The notice to the Director must include a written certification by the new owner and/or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and process;

(2) Identifies the specific date on which the transfer is to occur; and;

(B) Failure to provide 90 day notice of a transfer renders the Wastewater Discharge Permit voidable as of the date to facility transfer.

§ 12A-4-9 Regulation of waste received from other jurisdictions.

(A) Before another municipality, User located within another municipality, or private utility contributes wastewater to the POTW they must enter into an agreement with the City, and comply with the provision of subsection **Error! Hyperlink reference not valid.**(B) of this section.

(B) All agreements with any municipality, User located within another municipality, or private utility shall contain the following, along with such other provisions and information requested by the City:

(1) Provide a description of the quality and volume of wastewater to be discharged to the POTW;

(2) A requirement for the contributing municipality, User located in another municipality, or private utility to adopt a sewer use ordinance which is at least as stringent as this chapter and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those provided in this chapter. The requirement shall specify that

~~such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or Local Limits;~~

~~(3) A requirement for the contributing municipality, User located within another municipality, or private utility to submit a revised User inventory on an annual basis or request from the Director and provide immediate access to the facilities of the Users identified on the inventory for the purposes of inspection, sampling and any duties deemed necessary by the Director;~~

~~(4) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality, User located within another municipality, or private utility; which of these activities will be conducted by the Director; and which of these activities will be conducted jointly by the contributing municipality, User located within another municipality, or private utility and the Director;~~

~~(5) A requirement for the contributing municipality, User located within another municipality, or private utility to provide the Director with access to all information that the contributing municipality obtains as part of its pretreatment activities at no expense to the City;~~

~~(6) Limits on the nature, quality, and volume of the contributing municipality, User located within another municipality, or private utility's wastewater at the point where it discharges to the POTW; and~~

~~(7) Requirements for monitoring the contributing municipality, User located within another municipality, or private utility discharge.~~ ~~(Ord. 14-1290, passed 3-3-2014)~~

12A-4-10 WASTEWATER DISCHARGE PERMIT RENEWAL

A User with an expiring wastewater discharge permit shall apply for the reissuance of their wastewater discharge permit by submitting a completed permit application, in accordance with Section 12A-4-4 and application fee at least 90 days prior to the expiration of the User's existing wastewater discharge permit. A User whose existing wastewater discharge permit has expired and who has submitted a reapplication in the time period specified herein shall be deemed to have an effective wastewater discharge permit until the Director issues or denies the new wastewater discharge permit. A User whose existing wastewater discharge permit has expired and who failed to submit a reapplication in the time period specified herein will be deemed to be discharging without a wastewater discharge permit and subject to enforcement action.

12A-4-11 REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS

(A) Before another municipality, User located within another municipality, or private utility contributes wastewater to the POTW they must enter into an agreement with the City, and comply with the provision of subsection (B) of this section.

(B) All agreements with any municipality, User located within another municipality, or private utility shall contain the following, along with such other provisions and information requested by the Director:

(1) Provide a description of the quality and volume of wastewater to be discharged to the POTW;

(2) A requirement for the contributing municipality, User located in another municipality, or private utility to adopt a sewer use ordinance which is at least as stringent as this chapter and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those provided in this chapter. The requirement shall specify that such chapter and limits must be revised as necessary to reflect changes made to the City's ordinance or Local Limits;

(3) A requirement for the contributing municipality, User located within another municipality, or private utility to submit a revised User inventory on an annual basis or request from the Director and provide immediate access to the facilities of the Users identified on the inventory for the purposes of inspection, sampling and any duties deemed necessary by the Director;

(4) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality, User located within another municipality, or private utility; which of these activities will be conducted by the Director; and which of these activities will be conducted jointly by the contributing municipality, User located within another municipality, or private utility and the Director;

(5) A requirement for the contributing municipality, User located within another municipality, or private utility to provide the Director with access to all information that the contributing municipality obtains as part of its pretreatment activities at no expense to the City;

(6) Limits on the nature, quality, and volume of the contributing municipality, User located within another municipality, or private utility's wastewater at the point where it discharges to the POTW; and

(7) Requirements for monitoring the contributing municipality, User located within another municipality, or private utility discharge.

12A-4-12 SIGNATORY AND CERTIFICATION REQUIREMENT

(A) All reports required by this chapter, federal or state regulations including but not limited to wastewater discharge permit applications, Baseline Monitoring Reports and User reports and Notices must be signed by an authorized or duly authorized representative as defined in this chapter at Section 12A-1-3

(B) All reports being submitted from the User shall contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in

accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Sections:

12A-5-1 Baseline monitoring reports.
12A-5-2 Compliance schedule progress reports.
12A-5-3 Reports on compliance with categorical pretreatment standard deadline.
12A-5-4 Periodic compliance reports.
12A-5-5 Reports of changed conditions.
12A-5-6 Reports of potential problems.
12A-5-7 Reports from unpermitted users.
12A-5-8 Notice of violation/repeat sampling and reporting.
12A-5-9 Discharge of hazardous waste.
12A-5-10 Analytical requirements.
12A-5-11 Sample collection.
12A-5-12 Date of receipt of reports.
12A-5-13 Record keeping.
12A-5-14 Certification Statements

§ 12A-5-1 Baseline monitoring reports.

(A) Within either 180 days after the effective date of a categorical Pretreatment Standard, or the ADEQ final administrative decision on a category determination under 40 CFR § 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report which contains the information listed in Ssubsection 12A-5-1B, below~~(B) of this section~~. At least 90 days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users

subsequent to the promulgation of an applicable categorical Standard, shall submit to the Director a report which contains the information listed in subsection (B) of this section. A New Source shall report ~~to the City~~ the method of pretreatment it intends to use to meet applicable ~~categorical~~ Categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) Users described above shall submit the information set forth below:

(1) All information required in Section 12A-4-4A(1)(a), Section 12A-4-4A(2), Section 12A-4-4A(3)(a), and Section 12A-4-4A(6).

~~*Identifying Information.* The name and address of the facility, including the name of the operator, owner, and NAICS/SIC number.~~

(2) Measurement of pollutants.

(a) The user shall provide the information required in Section 12A-4-4A(7)(a) through (e).

(b) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

(c) Samples shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;

(d) Sampling and analysis shall be performed in accordance with Section 12A-5-10 and Section 12A-5-11;

(e) The Director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(f) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

~~(2) *Environmental Permits.* A list of any environmental control permits held by or for the facility.~~

(3) Compliance Certification. A statement, reviewed by the user's Authorized Representative as defined in Section 12A-1-3 and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

~~(3) *Description of Operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such User. This description will include a schematic process diagram in relation to a site plan which indicates points of discharge to the POTW from the regulated processes.~~

(4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the user shall provide such additional pretreatment and/or O&M shall be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section shall meet the requirements set out in Section 12A-5-2 of this chapter.

~~(4) *Flow Measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR § 403.6(e).~~

(5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 12A-5-14 of this chapter and signed by an Authorized Representative as defined in Section 12A-1-3.

~~(5) Measurement of pollutants.~~

~~(C) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.~~

~~(D) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR § 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR § 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;~~

~~(1) Sampling and analysis shall be performed as provided in this chapter;~~

~~(2) The Director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;~~

~~(3) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.~~

~~(E) *Certification.* A statement, reviewed by the User's Authorized Representative as defined in this chapter and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.~~

~~(F) *Compliance Schedule.* If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements as provided in this chapter.~~

~~(G) *Signature and Report Certification.* All baseline monitoring reports must be certified as provided in this chapter and signed by an Authorized Representative. (Ord. 14-1290, passed 3-3-2014)~~

§ 12A-5-2 Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required in this chapter.

(A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable Pretreatment Standards. Such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation;

(B) No increment referred to above shall exceed nine (9) months;

(C) The user shall submit a progress report to the Director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(D) In no event shall more than nine (9) months elapse between such progress reports to the Director. More frequent reporting may be required by the Director.

(E) The Director is authorized to review and approve compliance schedules and may require shorter increments of progress between events.

~~The User shall submit a progress report to the Director no later than 14 calendar days following each increment date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule. (Ord. 14-1290, passed 3-3-2014)~~

§ 12A-5-3 Reports on compliance with categorical pretreatment standard deadline.

Within 90 days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the Director a report containing the information described in 12A-4-4(6) and (7) and 12A-5-1B(2) of this chapter. ~~required by Section 12A-5-1~~. For ~~Users~~ users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR § 403.6(c), this report shall contain a reasonable measure of the ~~User's~~ user's long term production rate. For all other ~~Users~~ users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 12A-5-14A of this chapter. All sampling shall be done in conformance with Section 12A-5-11.~~as true and correct, and include copies of the sample taken as provided in Section 12A-5-10. (Ord. 14-1290, passed 3-3-2014)~~

§ 12A-5-4 Periodic compliance reports.

(A) Except as specified in Section 12A-5-4C, all Significant Industrial users must, at a frequency determined by the Director submit no less than twice per year (January and July or on dates specified in its Permit) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the Director or the Pretreatment Standard necessary to determine the compliance status of the user.

(B) The city may authorize an Industrial user subject to a Categorical Pretreatment Standard to forego sampling of a pollutant regulated by a Categorical Pretreatment Standard if the Industrial user has demonstrated through

sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial user. [*See* 40 CFR 403.12(e)(2)] This authorization is subject to the following conditions:

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable Categorical Standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five (5) years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 12A-4-4A(8).

(3) In making a demonstration that a pollutant is not present, the Industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(4) The request for a monitoring waiver must be signed in accordance with Section 12A-1-3 and include the certification statement in 12A-5-14A (40 CFR 403.6(a)(2)(ii)).

(5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(6) Any grant of the monitoring waiver by the Director must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the Director for 3 years after expiration of the waiver.

(7) Upon approval of the monitoring waiver and revision of the user's permit by the Director, the Industrial user must certify on each report with the statement in Section 12A-5-14C, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial user.

(8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately: Comply with the monitoring requirements of Section 12A-5-4A, or other more frequent monitoring requirements imposed by the Director, and notify the Director.

(9) This provision does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standard.

~~All wastewater samples must be representative of the User's discharge and obtained and analyzed as provided in this chapter. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.~~

(C) The city may reduce the requirement for periodic compliance reports to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard, where the Industrial user's total categorical wastewater flow does not exceed any of the following:

(1) 0.01 percent of the POTW's design dry-weather *hydraulic capacity* of the POTW, or five thousand (5,000) gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial user discharges in batches;

(2) 0.01 percent of the design dry-weather *organic treatment capacity* of the POTW; and

(3) 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable Categorical Pretreatment Standard for which approved Local Limits were developed in accordance with Section 12A-2-6 of this chapter.

Reduced reporting is not available to Industrial users that have in the last two (2) years been in Significant Noncompliance, as defined in Section 12A-7-2 of this chapter. In addition, reduced reporting is not available to an Industrial user with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the Director, decreasing the reporting requirement for this Industrial user would result in data that are not representative of conditions occurring during the reporting period.

(D) All periodic compliance reports must be signed and certified in accordance with Section 12A-5-14A of this chapter.

(E) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(F) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director, using the procedures prescribed in Section 12A-5-11 of this chapter, the results of this monitoring shall be included in the report.

~~(C) If a User subject to the reporting requirement in this section monitors any pollutant more frequently than required by the permit, using the procedures provided in Section 12A-5-10, the results of this monitoring shall be included in the report. (Ord. 14-1290, passed 3-3-2014)~~

§ 12A-5-5 Reports of changed conditions.

Each user must notify the Director of any significant changes (as defined at Section 12A-1-3) to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 90 days before the change.

(A) The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 12A-4-4 of this chapter.

(B) The Director may issue an individual wastewater discharge permit under Section 12A-4-2 of this chapter or modify an existing wastewater discharge permit under Section 12A-4-2 of this chapter in response to changed conditions or anticipated changed conditions.

~~(A) Each User must notify the Director in writing of any significant changes, as defined in this chapter, to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least 45 days before the change.~~

~~(1) The Director may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.~~

~~(2) The Director may issue a wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions. (Ord. 14-1290, passed 3-3-2014)~~

§ 12A-5-6 Reports of potential problems.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, accidental discharge of hazardous waste, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the ~~User~~ user shall immediately telephone and notify the Director of the incident followed up with an email to ipp@goodyearaz.gov. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

(B) Within five (5) ~~calendar~~ days following such discharge, ~~described in subsection (A) of this section,~~ the ~~U~~user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the ~~User~~ user to prevent similar future occurrences. Such notification shall not relieve the ~~User~~ user of any

expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(C) A notice ~~and emergency contact information for the City~~ shall be permanently posted on the ~~User's~~ user's bulletin board or other prominent place advising who ~~the User shall~~to call in the event of a discharge described ~~in subsection~~paragraph (A), above. ~~of this section.~~ Employers ~~Users~~ shall ensure that all staff is advised of the emergency notification procedure. ~~ensure that all staff is advised of the emergency notification procedure. (Ord. 14-1290, passed 3-3-2014)~~

(D) Significant Industrial users are required to notify the Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

§ 12A-5-7 Reports from unpermitted users.

All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Director as the Director may require.

~~All Users not required to obtain a wastewater discharge permit shall comply with this chapter and all reporting as required by the Director.~~ (Ord. 14-1290, passed 3-3-2014)

§ 12A-5-8 Notice of violation/repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the Director within 24 hours of becoming aware of the violation. ~~If sampling performed by a User indicates a violation of their permit, the User shall notify the Director in writing within 24 hours of becoming aware of the violation and provide the Director with the test results, if available.~~ The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within 30 calendar days after becoming aware of the violation. Re-sampling by the ~~User~~ Industrial user is not required if the ~~City~~ city performs sampling at the ~~User's~~ user's facility at least once a month, or if the City performs sampling at the User between the time when the initial sampling was conducted and the time when the ~~User~~ user or the City received the results of this sampling, or

if the City has performed the sampling and analysis in lieu of the User. (Ord. 14-1290, passed 3-3-2014)

12A-5-9 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE

(A) The discharge of hazardous waste is prohibited as provided in 40 CFR Part 261. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 12A-5-5 of this chapter. The notification requirement in this Section does not apply to pollutants already reported by users subject to Categorical Pretreatment Standards under the self-monitoring requirements of Sections 12A-5-1, 12A-5-3, and 12A-5-4 of this chapter.

(B) Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(C) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(D) In the case of any notification made under this Section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable Federal or State law.

~~§ 12A-5-9 Discharge of hazardous waste.~~

~~The discharge of hazardous waste is prohibited as provided in 40 CFR Part 261. (Ord. 14-1290, passed 3-3-2014)~~

§ 12A-5-10 Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director or other parties approved by EPA.

~~(A) All samples collected for purposes of analysis to determine compliance with this chapter must be obtained using sampling techniques/procedures as published by the EPA in 40 CFR § 136.~~

~~(B) The analysis of all samples in order to be considered for compliance with the requirements of this chapter must be conducted pursuant to the techniques and procedures published by the EPA in 40 CFR § 136 by a laboratory licensed by the State of Arizona as an environmental laboratory (A.R.S. § 36-495, *et seq.*) or such other approval authority deemed acceptable by the Director. (Ord. 14-1290, passed 3-3-2014)~~

§ 12A-5-11 Sample collection.

(A) (

(B) Samples collected to satisfy reporting requirements shall be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(C) Except as indicated in Section C and D below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple Grab Samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, Grab Samples may be required to show compliance with Instantaneous Limits.

(D) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(E) For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 12A-5-1 and 12A-5-3 [40 CFR 403.12(b) and (d)], a minimum of four (4) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical

sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by paragraphs Section 12A-5-4 (40 CFR 403.12(e) and 403.12(h)), the Industrial user is required to collect the number of Grab Samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

~~A) Except as provided in subsection (B) of this section, the User must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Director may authorize the use of time proportional sampling or a minimum of four grab samples where the User demonstrates that this will provide a representative sample of the effluent being discharged.~~

~~(B) Samples for oil and grease, temperature, pH, cyanide, sulfides, and those pollutants and limits, as provided in this chapter, must be obtained using grab collection techniques unless otherwise specified in the wastewater discharge permit. (Ord. 14-1290, passed 3-3-2014)~~

§ 12A-5-12 Date of receipt of reports.

Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern. (Ord. 14-1290, passed 3-3-2014)

§ 12A-5-13 Record keeping.

Users subject to the reporting requirements of this chapter shall retain, and make available to the City for inspection ~~and copying at no charge to the City~~, of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established under Section 12A-2-H(3). ~~all records created, gathered and obtained pursuant to any monitoring activity, and Best Management Practices. All~~ Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. ~~monitoring shall include the sample date, exact place and time sample taken, method used, name of person taking sample, date analyzed, name of person conducting~~

~~analysis, analytical techniques and methods used; and the results of the analysis~~. These records shall remain available for a period of at least three (#3) years. ~~to the City for inspection and copying to the City for three years from the date of sample.~~ This period shall be automatically extended for the duration of any litigation concerning the ~~User~~ user or the ~~C~~city, or where the ~~User~~ user has been specifically notified of a longer retention period by the Director. (Ord. 14-1290, passed 3-3-2014)

12A-5-14 CERTIFICATION STATEMENTS

(A) Certification of Permit Applications, User Reports and Initial Monitoring Waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with Section 12A-4-12; users submitting baseline monitoring reports under Section 12A-5-1B(5); users submitting reports on compliance with the Categorical Pretreatment Standard deadlines under Section 12A-5-3; users submitting periodic compliance reports required by Section 12A-5-4A–D, and users submitting an initial request to forego sampling of a pollutant on the basis of Section 12A-5-4B(4). The following certification statement must be signed by an Authorized Representative as defined in Section 12A-1-3:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(B) Annual Certification for Non-Significant Categorical Industrial users. A facility determined to be a Non-Significant Categorical Industrial user by the Director pursuant to 12A-1-3 must annually submit the following certification statement signed in accordance with the signatory requirements in 12A-1-3. This certification must accompany an alternative report required by the Director:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 CFR ____, I certify that, to the best of my knowledge and belief, during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____

[facility name] met the definition of a Non-Significant Categorical Industrial user as described in 12A-1-3;

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

_____

_____

(C) Certification of Pollutants Not Present. Users that have an approved monitoring waiver based on Section 12A-5-4B must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 12A-5-4A.

The Goodyear Code of Ordinances is current through Ordinance 23-1572, passed April 10, 2023.

Disclaimer: The City Clerk's Office has the official version of the Goodyear Code of Ordinances. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: www.goodyearaz.gov

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Article 12A-6

COMPLIANCE MONITORING

Sections:

12A-6-1 Right of entry; Inspection and sampling.

12A-6-2 Search warrants.

§ 12A-6-1 Right of entry; Inspection and sampling.

12A-6-1 RIGHT OF ENTRY; INSPECTION AND SAMPLING

(A) The Director, upon presentation of credentials, shall have the right of entry to, upon, or through the facilities of any User to determine whether the User is complying with all requirements of this chapter and any individual wastewater discharge permit, other permit or order. Users shall allow the Director ready access to all parts of the facilities for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where a User has security measures in force which require proper identification and clearance before entry into its facilities, the User shall make necessary arrangements with its staff so that, upon presentation of credentials, the Director shall be permitted to enter for the purposes for exercising all inspection and review authorities under this chapter.

(2) The Director shall have the right to set up on the User's property, and/or require the User to permit installation of the City equipment at the User's expense, of such devices as determined necessary by the Director to conduct sampling and/or metering of the User's operations.

(3) Unreasonable delays in allowing the Director access to the User's premises shall be a violation of this chapter.

(B) Monitoring Facilities

(1) The Director may require the User to install monitoring equipment on the User's property as determined necessary by the Director, at the User's expense. This monitoring facility shall be of a design or configuration and location approved by the Director and may include wastewater flow measurement equipment, automatic flow-proportional sampling equipment and automatic wastewater analysis and data recording equipment.

(2) The facility's sampling and monitoring equipment shall be maintained at all times in a clean, safe and proper operating condition. All devices used to measure wastewater flow and quality shall be calibrated per manufacturer specifications to ensure their accuracy. Proof of the most recent calibrations shall be maintained by the User and provided to the City when requested.

(3) User shall maintain their facilities to ensure the City staff have safe and easy access and ample room in or near the monitoring facility to perform independent monitoring activities and allow for accurate sampling and preparation of samples and inspection. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the User.

(C) Digital Images

Digital images may be used to document conditions observed during inspections and investigations and sampling. Digital image means any photograph or video taken using a digital camera or device, including the audio portion of the video. Inspections and sampling are conducted to evaluate a user for the purpose of gathering information to determine if the user is in compliance with applicable environmental requirements. Inspections and sampling may also assess a regulated entity's ability to maintain compliance. Standard Operating Procedures for the taking, use and storage of Digital Images shall be made available to the user.

(D) The user has the following rights during any inspection by an authorized employee of the Public Works Department:

(1) IU may accompany the City inspector on the premises (except during confidential interviews).
(2) In accordance with the City of Goodyear Code, Chapter 12A, the City may charge an annual inspection amount and assess a re-inspection fee. Refer to the most current USER FEE schedule for the dollar amount.

- FOG fees Annual Inspection Re-Inspection
- WDP fees Annual Inspection Re-Inspection

(3) IU has the right to make copies of any original document(s) taken from the premises by the City inspector during the inspection if the City is permitted by law to take the original document(s).
(4) IU has the right to have a "split" or "duplicate" of any samples taken during the inspection, but only if the split or duplicate would not prohibit an analysis from being conducted or render an analysis inconclusive.
(5) IU has a right to receive a copy of any analysis performed on samples taken during the inspection.
(6) The City inspector will advise anyone if conversations or interviews are being recorded.
(7) The City inspector will inform all interviewees that statements provided during the interview may be included in the inspection
(8) That the IU has the right to appeal final City decisions in accordance with the City of Goodyear Code Chapter 12A and any applicable State law provisions.
(9) That actions taken to correct deficiencies which have been identified during the inspection and noted in the inspection report are not appealable actions.

~~(A) The Director, upon presentation of credentials, shall have the right of entry to, upon, or through the facilities of any User to determine whether the User is complying with all requirements of this chapter and any individual wastewater discharge permit, other permit or order. Users shall allow the Director ready access to all parts of the facilities for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.~~

~~(B) Where a User has security measures in force which require proper identification and clearance before entry into its facilities, the User shall make necessary arrangements with its staff so that, upon presentation of credentials, the Director shall be permitted to enter for the purposes for exercising all inspection and review authorities under this chapter.~~

~~(C) The Director shall have the right to set up on the User's property, and/or require the User to permit installation of the City equipment at the User's expense, of such devices as determined necessary by the Director to conduct sampling and/or metering of the User's operations.~~

~~(D) The Director may require the User to install monitoring equipment on the User's property as determined necessary by the Director, at the User's expense. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition as specified by the manufacturer. All devices used to measure wastewater flow and quality shall be calibrated per manufacturer specifications to ensure their accuracy. Proof of the most recent calibrations shall be maintained by the User and provided to the City when requested.~~

~~(E) User shall maintain their facilities to ensure the City staff have safe and easy access and ample room in or near the monitoring facility to perform independent monitoring activities and allow for accurate sampling and preparation of samples and inspection. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the User.~~

~~(F) Unreasonable delays in allowing the Director access to the User's premises shall be a violation of this chapter.~~ ~~(Ord. 14-1290, passed 3-3-2014)~~

§ 12A-6-2 Search warrants.

(A) If Director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Director may seek issuance of an administrative search warrant from the Goodyear Municipal Court or other court of competent jurisdiction.

(B) Nothing in this section is intended to preclude the issuance of a criminal warrant in lieu of or in addition to a civil administrative warrant to conduct a criminal investigation of a violation of this chapter or any other lawful purpose.

(C) A warrant shall be executed and returned to the magistrate/judge who issued it within 10 days after its date. After the expiration of that time, the warrant shall unless executed be void. (Ord. 14-1290, passed 3-3-2014)

Article 12A-7
RELEASE OF INFORMATION

Sections:

12A-7-1 Confidential information.
12A-7-2 Publication of users in significant noncompliance.

§ 12A-7-1 Confidential information.

Information and data regarding a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the City's inspection and sampling activities, shall be available to the public without restriction and are subject to release pursuant to public records requests. When obtaining a permit, it is the responsibility of the User to clearly identify in writing to the Director those items the User believes would qualify as a trade secret or propriety information. The City will use reasonable efforts to inform the User of public records requests, for information the User has previously identified in writing to the Director as data involving trade secrets or propriety information, prior to the City releasing that information. It will then be the responsibility of the User to seek a court order to preclude disclosure. The City will not be legally responsible for the disclosure of information pursuant to federal or state law. Trade secrets or secret processes shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. 14-1290, passed 3-3-2014)

§ 12A-7-2 Publication of users in significant noncompliance.

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The city shall publish annually, in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of the Users, which during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. For the purposes of this provision, a User is in significant noncompliance if its violation meets one or more of the following criteria:

(A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined by Section 12A-2;

(B) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by Section 12A-2 multiplied by the TRC [TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except PH];

(C) Any other discharge violation of a pretreatment standard or requirement as defined by Section 12A-2 (daily maximum, longer-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(D) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;

(E) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(G) Failure to accurately report non-compliance; or

(H) Any other violation or group of violations, which may include a violation of best management practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

~~A) The Director shall publish annually, in a newspaper of general circulation in the City, a list of the Users which, at any time during the previous 12 months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The cost of publication shall be paid for by the User according to their proportionate share among the Users. (Ord. 14-1290, passed 3-3-2014)~~

Article 12A-8

ENFORCEMENT RESPONSE PLAN

Sections:

12A-8-1 Enforcement authority and responsibilities.
12A-8-2 Types of violations.
12A-8-3 Determining enforcement response.
12A-8-4 Enforcement actions.
12A-8-5 Issuance of notice of violation.
12A-8-6 Compliance meetings.
12A-8-7 Notice to show cause.
12A-8-8 Administrative orders.
12A-8-9 Administrative fines.
12A-8-10 Termination or suspension of permit.

12A-8-11 Revocation of permit.
12A-8-12 User appeal.
12A-8-13 Civil actions.
12A-8-14 Criminal actions.
12A-8-15 Liability of user.
12A-8-16 Judicial proceedings.
12A-8-17 Levels of action.
12A-8-18 Enforcement response actions.
12A-8-19 Notices.
12A-8-20 Emergency suspensions.
12A-8-21 Performance bonds; Liability insurance; Contract award.

12A-8-22 Enforcement Response Time Frame

§ 12A-8-1 Enforcement authority and responsibilities.

(A) The Enforcement Response Plan (ERP) outlines the procedures followed by City staff to identify, document, and respond to discharge violations in a manner appropriate to the nature of the violation. This ERP was developed in accordance with 40 CFR 403.8(f)(5); and Goodyear City Code 12A. In addition, the ERP describes the responsibilities of the City's Pretreatment Program staff and procedures.

~~(A) The Enforcement Response Plan (ERP) outlines the procedures followed by City staff to identify, document, and respond to discharge violations in a manner appropriate to the nature of the violation. In addition, the ERP describes the responsibilities of the City's Pretreatment Program staff and procedures.~~

(B) The Director shall enforce and provide consistency in the implementation, application, regulation and enforcement of this chapter; approve enforcement actions; oversee proceedings; assess administrative fines and approve termination of water and wastewater services when appropriate. (Ord. 14-1290, passed 3-3-2014)

(C) The City Attorney will provide consultation as requested by staff for issues needing legal clarification, regulatory issues, developments, changes, and for procuring search warrants; advise City staff during Administrative Enforcement matters as required; consult with the Program Manager on Administrative Enforcement actions. The attorney will act as lead on all referrals by staff for civil litigation or criminal investigations or any other Judicial Enforcement on behalf of the City.

(D) The Programs Manager (PM) is responsible for the overall management of the Industrial Pretreatment Program (IPP). The PM position is responsible for ensuring that the IPP meets all Federal, State, and local pretreatment program requirements and the City Code Chapter 12A and policies. The PM has signatory responsibility for issuance of major enforcement actions; administrative complaints and presents the case at an administrative hearing if necessary. The PM prepares documentation and determination of noncompliance, drafts appropriate enforcement action, tracks enforcement follow-up and recommend closure for major enforcement actions, including emergency suspension and termination of service.

(E) The Pretreatment Supervisor (PS) is responsible for general oversight and planning of all activities pertaining to user compliance. The PS supervises the identification and characterization of any instances of noncompliance by users. This includes documentation of all inspection and monitoring activities necessary to determine the compliance or noncompliance of a discharger with Chapter 12A, Wastewater Discharge Permits (WDPs), and Federal Pretreatment Standards and Requirements. The PS is responsible for development of an overall inspection and sampling plan, including resource scheduling and standard operating procedures. The PS is responsible for the day-to- day oversight of staff implementation of all activities pertaining to user compliance, including administering user inspection and monitoring programs. As necessary, the PS reviews inspection reports, sampling, and quality control/quality assurance documentation prepared by staff prior to filing. The PS is responsible for ensuring that time frames for sampling, inspections, user compliance, and filing of documentation are achieved in accordance with the requirements of the ERP and IPP policies. The PS has signatory responsibility for issuance of minor level enforcement (warning letters and notices of violation) and intermediate level enforcement (administrative orders) and assists in documentation for assessment of administrative fines.

(F) The Sr. Industrial Pretreatment Inspector and Industrial Pretreatment Inspector (IPI) is responsible for conducting the user monitoring and inspection program. The IPI has routine, direct contact with the various users of the sewer system. The IPI prepares inspection reports for review and submittal to users. In addition, the IPI is responsible for implementing the general monitoring program in accordance with the IPP policies and required quality control procedures. The IPI reviews all sampling and monitoring data. Based on site inspections and review of user reports, sampling and monitoring data, the IPI is responsible for determining any instance of user noncompliance. The IPI drafts warning letters and notices of violation where appropriate. The IPI has signatory responsibility for issuance of minor level enforcement in the absence of the PS. All finalized enforcement actions will be documented and tracked into the IU's file.

(G) Levels of Responsibility for Instances of Noncompliance

The following table summarizes staff level of responsibility for enforcement actions. Staff is listed by level of signatory responsibility. It is acknowledged that subordinate staff will assist as necessary in compilation and documentation of noncompliance at all levels of enforcement.

Enforcement Level	Staff Responsible	Action
Minor (Informal Notice, Notice of Violation, Administrative Fine)	Industrial Pretreatment Inspector	Determine and document noncompliance: Draft appropriate enforcement action. Track enforcement follow-up and recommend closure. Sign and issue enforcement actions in PS absence.

	Pretreatment Supervisor	Sign and issue enforcement actions. Sign closure actions.
Intermediate (Administrative Order, Administrative Fine)	Industrial Pretreatment Inspector	Determine and document noncompliance: Draft appropriate enforcement action. Track enforcement follow-up and recommend closure.
	Pretreatment Supervisor	Oversee determination and documentation of noncompliance. Sign and issue enforcement actions. Sign closure actions.
Civil Action	Pretreatment Supervisor	Oversee determination and documentation of noncompliance. Draft administrative complaint and supportive documentation. Track enforcement follow-up and recommend closure.
	Programs Manager	Sign and issue administrative complaint. Sign closure actions. Present case at administrative hearing.
Major (Show Cause Order, Permit Revocation, Emergency Suspension, Termination, and Judicial Proceedings)	Programs Manager	Oversee determination and documentation of noncompliance. Draft appropriate enforcement action. Track enforcement follow-up and recommend closure. Prepare notification for actions involving termination of service.
	Director	Sign and issue show cause order or enforcement orders including emergency suspensions. Conduct show cause hearing or assign hearing officer. Refer to Counsel for noncompliance involving civil action. Refer to Attorney for noncompliance involving criminal prosecution.

§ 12A-8-2 Types of violations.

(A) It is the intent of this enforcement section to provide adequate mechanisms to achieve a maximum degree of compliance with this Chapter by all Users in an equitable and consistent manner. These enforcement provisions apply to all classes of Users, to the extent such User violates any provision of this chapter or administrative order of the city pursuant to this chapter. To achieve compliance, the IPP will use a variety of enforcement mechanisms. The enforcement mechanisms set forth range from informal administrative action to formal criminal prosecution. Goodyear City Code Chapter 12A is in place to protect public health and safety, the City's investment in infrastructure, and the health and safety of personnel working in or on the publicly owned

treatment works (POTW) and the environment.

~~(A) Determination of the appropriate enforcement response to noncompliance will vary based on the type and nature of the violation. User violations of monitoring, reporting, and treatment requirements may range from "relatively" minor violations (e.g., report submitted a week late but having no effluent violations) to significant violations. Each instance of noncompliance is a separate violation which will be reviewed and appropriately addressed.~~

(B) Types of violation include but are not limited to the following:

(1) Random Violation means any violation that exceeds a federal, Arizona, or local discharge limitation or compliance schedule. Random violations may include the first, second, or third offense and may not be severe or frequent enough to be classified as a Significant Violation or a Pattern Violation.

(2) Pattern Violation or Pattern of Noncompliance means any series of random violations ~~(four or more)~~ that is otherwise not ~~severe or frequent enough to be classified as a~~considered to be Significant ~~Violation~~Noncompliance, but which contribute to a pattern of noncompliance when viewed over a moving 12-month period. Noncompliance for any two consecutive calendar quarters for the same parameter or four or more instances of noncompliance within a 6-month~~Four random violations occurring during a moving 12-month~~ period would constitute a Pattern Violation.

(1) Significant Noncompliance (SNC) Violation means any violation meeting the definition at Section 12A-7-2. For Chronic Violations and TRC Violations as defined at Section 12A-7-2, the determination is on a rolling quarter basis.

~~(3) Significant Noncompliance (SNC) Violation means any violation, which by its impact, severity, or frequency of occurrence presents a hazard or nuisance to the POTW, general public, or the environment. A User is considered to be in significant noncompliance if one or more of the following has occurred in the previous 12 months:~~

~~(a) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;~~

~~(b) Technical review criteria (TRC) violations which means 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or~~

~~exceed the product of the daily maximum limit or the average limit multiplied by the applicable criteria to determine exceedance. Value for biochemical oxygen demand (BOD), total suspended solids (TSS), oil and grease is 1.4, value for other parameters except pH is 1.2;~~

~~(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);~~

~~(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Director's exercise of emergency authority to halt or prevent such a discharge;~~

~~(e) Failure to meet, within 90 days of the scheduled date, a Compliance Schedule deadline contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;~~

~~(f) Failure to provide, within 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;~~

~~(g) Failure to accurately report noncompliance; or~~

~~(h) Any other violation(s), which may include a violation of Best Management Practices, which the Public Works Director, in his sole discretion, determines will adversely affect the operation or implementation of the Pretreatment Program. (Ord. 14-1290, passed 3-3-2014)~~

§ 12A-8-3 Determining enforcement response.

(A) The city enforcement procedures are based on three levels of enforcement responses: minor, intermediate, and major. Although the following procedures are primarily directed at permitted users, they can generally apply to any user violating city rules and regulations. User violations of monitoring, reporting, BMPs, and treatment requirements may range from relatively minor violations (e.g., late reports without effluent discharge limit violation) to major violations resulting in treatment plant or collection system upsets. Each instance of noncompliance is a violation and as such is reviewed and appropriately addressed. Selection of the appropriate

enforcement response will relate to whether the violation is major or minor, and other factors such as the following:

(1) Duration and magnitude of Violation: The City will evaluate the duration of the violation to determine the possible effects that may have occurred in the POTW. The assessment of each specific violation should take into account the volume and strength or concentration of the discharge. Depending on the severity, even an isolated violation could threaten public health and the environment, damage public and private property, or threaten the operational integrity of the POTW.

(2) Compliance History of User: The compliance history of the facility is reviewed prior to selecting the appropriate level of enforcement response. More aggressive enforcement actions will be taken when a facility has frequent violations. Also considered is the effectiveness of previous enforcement actions.

(3) Good Faith Effort of User to resolve noncompliance: The City will consider the actions of the User, before and after a noncompliance incident, on a case-by-case basis to assess whether the User is acting in good faith.

(4) Degree of Harm Caused by Violation: Violations that have negative impacts to the POTW are typically considered major. For example, violations may result in significant increases in treatment costs; interfere with operations; harm POTW personnel or equipment, cause exceedances of the POTW permit limitations that result in fines from federal or Arizona agencies, or cause sludge contamination resulting in increased disposal costs. These violations may result in an administrative fine or civil fine and an Administrative Order to correct the violation, in addition to recovery of costs.

(5) Effect of the Violation on the receiving stream: One of the primary objectives of the Pretreatment Program is to prevent pollutants from "passing through" the POTW and entering the receiving waters. Consequently, any violation which results in environmental harm will be met with an escalated enforcement response. Environmental harm will be presumed whenever an industry discharges a pollutant into the sanitary sewer which:

(a) Passes through the POTW
(b) Causes a violation of the POTW's NPDES permit limits
(c) Has a toxic effect on the receiving waters
(d) A minimum response to these types of violations would be an administrative order and referral to the attorney. In addition, the response should ensure the recovery from the IU of any NPDES fines and penalties paid by the POTW.
(e) Termination of service may also be considered for repeat violations.

The following table presents an outline of escalating levels of enforcement.

Enforcement Level	**Response**	**Types**
Minor	Informal Notice	Warning letter Correction notice Telephone call Meeting Provide educational material

	Notice of Violation	
	Administrative Fines	
Intermediate	Administrative Order	Modification of Wastewater discharge permits Compliance schedules Prohibited actions or obligations to cease and desist Other appropriate orders
	Administrative Fines	
Major	Emergency Suspension or termination of Permit	
	Hearings to show cause	
	Administrative Fines	
	Publication of SNC and imposition of fines	
	Terminate Service	
	Judicial Proceedings	Civil Criminal

Upon learning of a violation, the IPP will determine the appropriate enforcement action. All compliance notifications at the level of a notice of violation or above will be in writing but may be initiated by verbal notification. Notification of major, intermediate, and notice of violation enforcement actions will be delivered to the user by certified mail, return receipt requested, or in person.

~~(A) The appropriate enforcement response for violations and noncompliance with wastewater discharge City requirement will depend upon the severity and duration of the violation, compliance history, good faith efforts of the User to comply, harm caused by the violation, and whether the noncompliance resulted in a violation of the City POTW permit(s).~~

~~(B) The following sections describe factors that are evaluated as part of the process to determine the appropriate level of enforcement response:~~

~~(1) *Severity and Duration of Violation.* The City will evaluate the duration of the violation to determine the possible effects that may have occurred in the POTW. The assessment of each specific violation should take into account the volume and strength or concentration of the discharge. Depending on the severity, even an isolated violation could threaten~~

~~public health and the environment, damage public and private property, or threaten the operational integrity of the POTW.~~

~~(2) *Compliance History of User.* The compliance history of the facility is reviewed prior to selecting the appropriate level of enforcement response. More aggressive enforcement actions will be taken when a facility has frequent violations. Also considered is the effectiveness of previous enforcement actions.~~

~~(3) *Good Faith Effort of User.* The City will consider the actions of the User, before and after a noncompliance incident, on a case-by-case basis to assess whether the User is acting in good faith.~~

~~(4) *Harm Caused by Violation.* Violations that have negative impacts to the POTW are typically considered significant. For example, violations may result in significant increases in treatment costs; interfere with operations; harm POTW personnel or equipment, cause exceedances of the POTW permit limitations that result in fines from federal or Arizona agencies, or cause sludge contamination resulting in increased disposal costs. These violations may result in an administrative fine or civil fine and an Administrative Order to correct the violation, in addition to recovery of costs.~~

~~(5) *Noncompliance Discharge.* The Noncompliance that causes interference or pass-through of the POTW and results in a City permit violation will be addressed with formal enforcement actions and fines in order to ensure that adequate pretreatment and discharge compliance is achieved promptly. Enforcement actions may include injunctive measures in appropriate cases.~~ ~~(Ord. 14-1290, passed 3-3-2014)~~

§ 12A-8-4 Enforcement actions.

(A) Determination of the appropriate enforcement response to noncompliance will vary based on the type, nature and severity of the violation as provided in the Enforcement Response Table. Each act and each day of noncompliance will constitute a separate violation. Once noncompliance is determined, the Director ~~City~~ will provide notice of the violation(s) to the User. The type of notification will vary depending on the severity of the violation.

(B) The Director~~City~~ may take the enforcement action determined appropriate by the Director~~City~~. The Enforcement Response Table is a guideline~~s~~ and in no way is intended to limit

the Director~~City's~~ ability to pursue any and all action it deems appropriate and warranted based on the allegations and in whatever order is determined to be appropriate.

(1) *Inspection and Monitoring*. When permit or discharge violations occur, the Director~~City~~ may perform an inspection of the facility to assess if the violation has been corrected and if the facility is operating normally. Inspections are typically not scheduled ahead of time. The User must allow the Director~~City~~ access to the facility for sampling and inspection purposes within a reasonable timeframe from inspection notification.

~~(a) When the results of the User's self-monitoring, as required by the User's Permit, indicate that a violation has occurred, the User is required to repeat the sampling and analysis for the parameter in violation. The re-sampling must consist of a minimum of four consecutive days of monitoring with flow and discharge conditions consistent with the facility's Industrial Wastewater Discharge Permit. The analytical results of the re-sampling must be submitted to the City within 30 days of the User becoming aware of the violation.~~

(2) *Informal Notification*.

(a) Verbal Warning Notice may be given for minor violations and involves the ~~City~~ Director notifying the User that a violation(s) has occurred, identifies the required corrective action(s) and the time frame in which the corrective action(s) must be completed. The Director~~City~~ may also schedule additional inspections and/or sampling and/or any other action deemed appropriate by the Director~~City~~.

(b) Written Warning Notice may be given in writing for minor or moderate violations and involves the Director~~City~~ notifying the User that a violation(s) has occurred, identifies the required corrective action(s) and the time frame in which the correction action(s) must be completed. The Director ~~City~~ may also schedule additional inspections and/or sampling and/or any other action deemed appropriate by the Director~~City~~.

(c) All enforcement actions will be documented in writing and placed in the User's pretreatment file. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-5 Issuance of notice of violation.

(A) *Notice of Violation (NOV).*

(1) Whenever the ~~ECS~~ Pretreatment Supervisor (PS) finds a User is in violation of any section of this Chapter, any provision and/or condition of the User's permit, compliance or corrective action order, or any other pretreatment standard requirement, the ~~ECS~~ PS may serve, or cause to be served, an NOV to the User.

(2) The NOV shall be served on the User and identify the nature of the alleged violation, the specific time frame for follow-up and/or other corrective actions and include a statement that additional enforcement actions may be pursued by the City if corrective actions are not achieved as required.

(B) *Response to Notification of Violation.* The User shall respond in writing to the ~~ECS~~PS within the specified time frame, but not later than 15 calendar days from receipt of the NOV by the User. The response shall provide an explanation of the violation and the corrective action taken. Submission of this response in no way relieves the User of criminal and civil liability for any violations occurring before or after receipt of the NOV.

~~(C) If the response to a NOV requires an order to show cause, the User shall respond by demonstrating why the Director should not ask the City Attorney to file a court action requesting injunctive relief and criminal and/or civil penalties.~~

(~~D~~C) The ~~ECS~~PS will determine the validity or appropriateness of the response. If the ~~ECS~~PS finds the response to be appropriate and satisfactory, the NOV will be closed and recorded in the facility file as part of compliance history. Closure to the NOV will be documented in writing and provided to the User. Closure of the NOV does not preclude further enforcement action.

(D~~E~~) *Deficient Response to Notification of Violation.* Upon review of a response to a notification of violation the ~~ECS~~PS finds the response to be deficient, the ~~ECS~~PS may require additional information, suspend or revoke the User's permit, issue an administrative fine, order the User to cease discharge, and/or seek appropriate injunctive relief and criminal and/or civil penalties.
(Ord. 14-1290, passed 3-3-2014)

§ 12A-8-6 Compliance meetings.

(A) Compliance Meetings are required when significant violations occur or when previous violations appear to remain uncorrected, as evidenced by repeated violations. Compliance Meetings between the User and City Pretreatment Program staff are scheduled as a last step to ensure compliance before pursuing a more stringent intervention, such as an order to cease further discharge. During a Compliance Meeting, a Compliance Schedule is developed and tracked by the ~~ECS~~PS. Compliance Meetings may be scheduled when any one of the following occurs, and at such other times deemed appropriate by the City:

(1) Discharge concentration exceeds five times the applicable discharge limit, or six times the applicable discharge limit for oil and grease;

(2) Discharge has a pH violation of less than 5.5 or greater than 9 for duration of 30 minutes or more and/or a volume greater than 100 gallons; or

(3) The IU has demonstrated a pattern of noncompliance as defined at 12A-8-2(B)(2).

~~The IU has demonstrated a pattern of noncompliance, defined as inconsistent compliance for two consecutive quarters for the same parameter; four or more NOVs within a six-month period; or failure to respond to an NOV within 30 days of the due date.~~

(A) (B) *Compliance Schedule.* When the discharger is found to be in noncompliance, a compliance schedule may be made part of an enforcement order. The deadline dates in the compliance schedule are enforceable requirements and are subject to the same enforcement actions and penalties as any other requirement of this Chapter.

~~will be subject to the same civil penalties and will be as enforceable as a discharge limit. (Ord. 14-1290, passed 3-3-2014)~~

§ 12A-8-7 Notice to show cause.

(A) The Director may issue a Notice to Show Cause to a User which has violated, or continues to violate, any provision of this chapter; a wastewater discharge permit or compliance order; or any other pretreatment standard or requirement. A Notice to Show Cause meeting provides the User with the opportunity to present information to the Director about why a proposed enforcement action should not be taken. The notice will be served to the User specifying the time and place of the Show Cause meeting, the proposed enforcement action, the reasons for

such action, and a request that the User show cause why the proposed enforcement action should not be taken.

(B) The notice will be served personally or by registered or certified mail (return receipt requested) at least 10 calendar days prior to the meeting. A Show Cause meeting will not be a bar against, or prerequisite for, taking any other action against the User. The User may waive the right for a Show Cause meeting. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-8 Administrative orders.

The City may issue an Administrative Order requiring a facility to achieve compliance with pretreatment standards or other requirements of the City Code. The Administrative Order will place a facility on an enforceable compliance schedule or require immediate compliance. The City may require a facility to install treatment devices and/or to operate and maintain treatment equipment correctly. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-9 Administrative fines.

(A) Administrative Fines for violations of any provision of this chapter; a wastewater discharge permit or compliance order; or any other pretreatment standard or requirement may be assessed by the Director. Each day that a violation continues may constitute a separate violation.

(B) When determining the amount of an Administrative Fine, other factors including, but not limited to, compliance history, good faith by the User, nature and type of violation, and history of the User may be taken into account, as well as any economic benefit resulting from the violation, the economic impact of the penalty on the violator, and the severity of the violation. Administrative fines are as provided in the Administrative Fine Table 7-2, which outlines the administrative fines that may be assessed based on the type and nature of the violation.

(C) In the event the User and the City agree on the amount of the Administrative Fines to be paid by the User, the User and the City may enter into a Pretreatment Settlement Agreement to be negotiated by the parties. In the event the User and the City are not able to so agree, the City

may file a Civil Action against the User in a court of competent jurisdiction as provided in this chapter. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-10 Termination or suspension of permit.

(A) The Director may issue a Cease and Desist Order to a User that has violated, or continues to violate, any provision of this chapter; a wastewater discharge permit or compliance order; or any other pretreatment standard or requirement. The City has the authority to immediately halt any actual or threatened discharge to the POTW that may represent an endangerment to public health, the environment, or the POTW. The Cease and Desist Order may direct the User to immediately comply with pretreatment standards and requirements and to take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(B) The Cease and Desist Order will be served personally or by registered or certified mail (return receipt requested). Issuance of a Cease and Desist Order will not be a bar against, or a prerequisite for, taking any other action against the User.

(C) Termination or suspension of discharge may be an appropriate response to facilities that have not complied with previous enforcement actions. This action is an administrative response, which may be implemented by the Director without initiating civil and/or criminal proceedings.

(D) Circumstances warranting termination or suspension of discharges include any of the following:

(1) Unpermitted discharge which results in violation of POTW permit(s);

(2) Any dangerous situation threatening human health, the environment, or the POTW;

(3) Discharges that exceed local limits or categorical discharge limits and/or result in damage to the environment or the POTW;

(4) Slug loads that result in interference, pass-through, or which may cause any dangerous situation threatening human health, the environment, or the POTW;

(5) Failure of the facility to notify the City of effluent violations of slug load discharge, or recurring slug loads, that causes any dangerous situation threatening human health, the environment, or the POTW;

(6) Failure of the facility to install monitoring equipment as required by an Administrative Order; and/or

(7) Any major violation of permit conditions or administrative action accompanied by evidence of negligence or intentional violation.

(E) The process for terminating or suspending a User's wastewater discharge permit is described below:

(1) The User will be provided written notification of the proposed termination or suspension, the basis for the proposed action and the date for the show cause meeting as provided in this chapter.

(2) If the User appears to have an actual or threatened discharge that may cause interference with the POTW or will present an imminent endangerment to the health, safety or welfare of any person or environment, or to the environment or pass-through interference, upset to, the POTW; the Director may immediately suspend any sewer service connection to the POTW without a Show Cause meeting. In such cases, the User will be entitled to a meeting within five calendar days of the suspension/termination.

(3) Service will be restored only after compliance has been achieved to the satisfaction of the Director.

(F) When notified of a permit suspension, the user shall cease discharge of all industrial wastewater to the POTW.

(G) *Failure to Comply with Permit Suspension.* In the event of a failure of the User to comply voluntarily with the notification of permit suspension, the Director shall take such steps as necessary to insure compliance up to and including termination of service by court order or physical barrier.

(H) *Reinstatement of Suspended Permit.* The Director shall, by written statement, reinstate the user's permit upon proof of satisfactory compliance with all requirements of the notification of permit suspension/termination. Damages and costs incurred by the City, and administrative

fee, in suspending the permit, disconnecting and/or reconnecting the User shall be paid for by the user before reinstatement of the permit. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-11 Revocation of permit.

(A) The Director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the Director in writing of significant changes to the wastewater prior to the change as required by this chapter;

(2) Failure to provide prior notification to the Director of changed conditions as required by this chapter;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self monitoring reports and certification statements;

(5) Tampering with monitoring or sampling equipment or a pretreatment device;

(6) Refusing to allow the Director immediate access to the facility premises and records;

(7) Exceeding effluent limitations;

(8) Failure to pay fines, costs or fees;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey; or

(12) Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this chapter.

(B) Any user whose permit has been revoked shall immediately cease all discharge of any industrial wastewater to the POTW.

(C) *Failure to Comply with Permit Revocation.* In the event of a failure of the user to comply voluntarily with the notification of permit revocation, the Director shall take such steps as necessary to insure compliance.

(D) *Resolution of Permit Revocation.* Before any further discharge of industrial wastewater may be made by the User, the User must apply for and obtain a new permit for industrial wastewater discharge, pay all charges that would be required upon initial application, and pay all delinquent fees, charges and such other sums as the user may owe to the county. Administrative fee assessed by the City in revoking the permit and disconnecting/reconnecting the industrial sewer shall be paid for by the user before issuance of a new permit.

(E) Wastewater discharge permits shall be automatically revoked upon cessation of operations or transfer of business ownership. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-12 User appeal.

An appeal may be made to the City Manager by filing a request with the City Clerk in the event that satisfactory resolution of Sections 12A-8-1, 12A-8-2, and 12A-8-3 is not agreed upon. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-13 Civil actions.

(A) The City has the authority to file a Civil Action against Users for violations of applicable pretreatment standards and seek injunctive relief, compliance, civil fines, and/or damages. Civil fines may be assessed in an amount up to $25,000 per violation per day in accordance with A.R.S. § 49-391. Filing Civil Actions is an appropriate enforcement response in the following situations:

(1) An emergency situation where injunctive relief is necessary to halt or prevent discharges which threaten human health, or the environment, or interfere with the POTW;

(2) When efforts to restore compliance through cooperation with the IU has failed and action is necessary to enforce Pretreatment Program requirements;

(3) To seek fines and other remedies in law, or equity, or statutory for violations;

(4) Any other situation deemed reasonable by the City for the protection of the public health, safety, and welfare of the community, POTW, or the environment.

(B) In instances that require filing a Civil Action, the ~~ECS~~PC will collect all pertinent information sufficient to support the complaint, and provide the information to the City Attorney. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-14 Criminal actions.

(A) Any person found guilty of violating any provision of this chapter or a User Wastewater Discharge Permit condition or requirement shall be guilty of a Class 1 misdemeanor, punishable by a fine not to exceed $2,500 for an individual and not more than $20,000 for an enterprise or by imprisonment for a period not to exceed six months, or by both fine and imprisonment. Each day that a violation continues shall be a separate offense.

(B) The City Attorney is authorized to seek criminal punishment for any person who violates pretreatment standards or any person who knowingly makes false statements in any report, application, record, or other document required by pretreatment regulations and City Code. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-15 Liability of user.

Any user who discharges, or causes the discharge of wastewaters which cause damage to the POTW, interference, pass-through, upset, or any other damages resulting in costs to the POTW shall be liable for all damages, costs, fees, fines and all other penalties resulting from or arising out of the user's actions. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-16 Judicial proceedings.

(A) *Initiation of Legal Action.* Whenever the Director finds that a user has violated any of the provisions of this chapter, the Director may ask the City Attorney to take appropriate legal action. This legal action may include, among other things, the following:

(1) Prohibitive injunctions;

(2) Mandatory injunctions for corrective action and cleanup, or other equitable relief;

(3) Civil penalties in accordance with this chapter;

(4) Criminal penalties, including restitution. In addition to any other restitution deemed appropriate by the Court, the Court may order that the violator pay restitution to reimburse the City for the costs and expenses incurred by the City as a result of the violation, including but not limited to those resulting from the enforcement, testing, emergency response and cleanup activities;

(5) Recovery of civil damages, penalties, and costs to the POTW.

(B) *Civil and Criminal Penalties for Violation.*

(1) The civil penalties for violation of any provision of this chapter, any part of a permit written and issued in compliance with this chapter and/or any requirement of a notification of violation written and issued in compliance with this chapter, shall not exceed $25,000 for each violation. For continuing violations, each day may constitute a separate offense. In determining the amount of a civil penalty the following shall be taken into consideration:

(a) The seriousness of the violation.

(b) The economic benefit, if any, resulting from the violation.

(c) Any history of such violation.

(d) Any good faith efforts to comply with the applicable requirements.

(e) The economic impact of the penalty on the violator.

(f) Such other factors as justice may require.

(C) The civil penalties for non-submittal of reports, noncompliance with the reporting and/or application requirements required in this chapter or permit, or failure to complete an increment of progress of a compliance schedule, shall not exceed $1,000 for each day in which the requirements are not fulfilled.

(D) Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of 10% of the unpaid balance, and interest shall accrue thereafter at a rate of

1% per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

(E) Any person who attempts to deceive a government agency by submitting documents to the agency or by making statements to a representative of the agency which they know to be false, or by destroying or concealing or refusing to deliver papers or records required by the agency to be kept for its information, is subject to prosecution for tampering with a public record, or fraudulent schemes and practices. Tampering with a public record and fraudulent schemes and practices are both felony violations pursuant to Arizona Revised Statutes.

(F) Any violation of any provision of this chapter, a wastewater discharge permit, or order issued hereunder, by any Person, are class 1 misdemeanors and may be pursued civilly and criminally subject to the penalties provided herein, Article 1-8, Chapter 18, A.R.S. § 49-391 and as provided by law. Each day any violation of any provision of this code or any ordinance incorporated herein, or the failure to perform any act or duty required by this code or ordinance incorporated herein, continues shall constitute a separate offense.

(G) The remedies provided for in this chapter are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the Chapter. However, the Director has the discretion to take other action against any User which the Director deems to be appropriate under the circumstances. Further, the Director is empowered to take more than one enforcement action against any noncompliant User. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-17 Levels of action.

(A) *Enforcement of Judicial Action.* Participation in any communication concerning violations will not exempt a User from formal enforcement or judicial action.

(B) *Written Permission Requirement.* Any permission required by a User from the Director must be in writing.

(C) *Separate Actions.* Any judicial proceedings initiated because of a violation of any section of this chapter shall not exempt a User from any judicial proceedings initiated because of a violation of any other provision of this chapter. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-18 Enforcement response actions.

(A) The following table identifies violations and the general enforcement response options that may be taken by the Director that shall apply to all Industrial users. The table is intended to be a reference only, and is not intended to identify all possible violations or limit the Director's response to a violation. At all times the Director retains the right to take any enforcement action, in response to an identified violation, which it deems appropriate including all civil and/or criminal actions available by law. All enforcement response options include the possible imposition of fees, fines, costs, reasonable attorney fees, court costs and any and all other expenses associated with inspection, and enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

(B) Enforcement Response Table

Violation	**Nature of Violation**	**Enforcement Response Option**	**Administrative Fines**
Un-Permitted Discharges			
Un-Permitted Discharge	User Aware Of Requirement; No Harm to the POTW Or Environment	Verbal Warning, Warning Notice, NOV With Permit Application Form, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring	Up to $1,000 per day per violation
	User Aware Of Requirement; Discharge Causes Harm to the POTW Or Environment	NOV, Resample Discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	Up to $10,000 per day per violation
	Failure To Comply; Discharge Continues After Notice By City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $25,000 per day per violation
Failure to Renew Permit	Permit Expired; No Application Submitted	NOV, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection	Up to $10,000 per day per violation
Discharge Limit Violations			
Exceedance of Local Limit, Permit Limit or Federal Standard	Random Violation; No Harm to POTW or Environment	Verbal Warning, Warning Notice, NOV, Resample discharge, Unannounced inspection, Unannounced City monitoring	
	Random violation; Discharge Caused Harm to POTW or Environment (SNC)	NOV, Resample discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	Up to $10,000 per day per violation
	Pattern Violation; No Harm to POTW or Environment	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	Up to $10,000 per day per violation

	Pattern Violation; Discharge Caused Harm to POTW or Environment (SNC)	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit	Up to $10,000 per day per violation
	Pattern Violation with Knowledge, Intent or Negligence (SNC)	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit	Up to $25,000 per day per violation
Monitoring and Reporting Violations			
Reporting Violation	Report Improperly Signed or Certified	Verbal Warning, Warning Notice, NOV	
	Report Improperly Signed or Certified After Notification By City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	Up to $1,000 per day per violation
	Random Violation No Harm to POTW or Environment Report, Reported Less Than 30 Days Late	Verbal Warning, Warning Notice, NOV,	
		Unannounced inspection	
	Report late <= 5 days	Verbal Warning, Warning Notice, NOV	$50 per day
	Report late 6 - 29 days	NOV, Compliance Meeting	$100 per day
	Report late, 30 days or more	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	$500 per day
	Missing or Incomplete Information in Report	Verbal Warning, Warning Notice, NOV,	
	Failure to Correct Report with Missing or Incomplete Information After Notification by City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	Up to $5,000 per day per violation
	Failure to Report Spill or Changed Discharge; No Harm to POTW or Environment	Verbal Warning, Warning Notice, NOV, Resample discharge, Unannounced inspection, Unannounced City monitoring,	Up to $1,000 per day per violation
	Failure to Report Spill or Changed Discharge; Discharge Caused Harm to POTW or Environment (SNC)	NOV, Resample discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	Up to $10,000 per day per violation
	Repeated Failure to Report Spills or Changed Discharge	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit	Up to $10,000 per day per violation

	Falsification of Information in Report	NOV, Show Cause Meeting, Administrative Order, Criminal and/or Civil Action, Terminate Sewer Connection, Revoke Permit	Up to $1,000 per day per violation
Failure to Monitor Correctly	Failure to Monitor All Pollutants as Required by Permit	Verbal Warning, Warning Notice, NOV	
	Pattern Violation or Evidence of Intent (SNC)	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil Action, Terminate Sewer Connection, Revoke Permit	Up to $5,000 per day per violation
Improper Sampling	Random Violation	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring	
	Pattern violation or Evidence of Intent (SNC)	NOV, Show Cause Meeting, Administrative Order, Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $5,000 per day per violation
Failure to Install Monitoring Equipment	Delay of 30 days or more after notification by City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $1,000 per day per violation
Compliance Schedules	Missed Compliance Deadline by Less Than 30 Days	Verbal Warning, Warning Notice, NOV	
	Missed Compliance Deadline by More Than 30 Days; USER Has Good Cause For Delay	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order	Up to $500 per day per violation
	Missed Compliance Deadline by More Than 30 Days; USER Does Not Have Good Cause For Delay (SNC)	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $1,000 per day per violation
	Pattern Violation or Violation of Schedule in Administrative Order	NOV, Show Cause Meeting, Administrative Order, Fines, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $5,000 per day per violation
Other Permit Violations			
Water Streams Diluted in Lieu of Treatment	Random Violation	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring,	

	Pattern Violation	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Fees/Fines, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $5,000 per day per violation
Failure to Mitigate Noncompliance or Halt Production	Discharge Causes No Harm to POTW or Environment	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring,	Up to $1,000 per day per violation
	Discharge Causes Harm to POTW or Environment	NOV, Resample Discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action	Up to $10,000 per day per violation
Failure to Properly Operate and Maintain Pretreatment Facility	Random Violation	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring	
	Pattern Violation	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $1,000 per day per violation
Violations Observed During Site Visit/Inspection			
Entry Denial	Entry denied or Consent Withdrawn; Copies of Records Denied	Warning Notice, NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $100 per day per violation
Illegal Discharge	Discharge Causes No Harm to POTW or Environment	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring	Up to $500 per day per violation
	Pattern Violation; No Harm to POTW or Environment	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order	Up to $1,000 per day per violation
	Discharge Causes Harm to POTW or Environment or There is Evidence of Intent or Negligence	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit	Up to $10,000 per day per violation
Improper Sampling	Incorrect Location, Sample Type, or Collection Procedure	Verbal Warning, Warning Notice, NOV, Resample discharge	
Inadequate Record Keeping or Documentation	Files incomplete or Missing Information; Initial Violation	Verbal Warning, Warning Notice, NOV	
	Pattern Violation After Notice From City to	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order,	Up to $5,000 per day per violation

	Correct	Civil and/or Criminal Action	
Failure to Report Additional Monitoring	Inspector Finds additional Files/Records; Initial Violation	Verbal Warning, Warning Notice, NOV	
	Pattern Violation After Notice From City to Correct	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Administrative Fines, Civil Action, Terminate Sewer Connection, Revoke Permit	Up to $5,000 per day per violation

~~(A) The following chart identifies violations and the general enforcement response options that may be taken by the City. The chart is intended to be a reference only, and is not intended to identify all possible violations or limit the City's response to a violation. At all times the City retains the right to take any enforcement action, in response to an identified violation, which it deems appropriate including all civil and/or criminal actions available by law. All enforcement response options include the possible imposition of fees, fines, costs, reasonable attorney fees, court costs and any and all other expenses associated with inspection, and enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.~~

~~(B) *Enforcement Response Chart.*~~

~~**Violation**~~	~~**Nature of Violation**~~	~~**Enforcement Response Option**~~
~~**Un-Permitted Discharges**~~		
~~Un-Permitted Discharge~~	~~User Aware Of Requirement; No Harm to the POTW Or Environment~~	~~Verbal Warning, Warning Notice, NOV With Permit Application Form, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring~~

Violation	Nature of Violation	Enforcement Response Option
	User Aware Of Requirement; Discharge Causes Harm to the POTW Or Environment	NOV, Resample Discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action
	Failure To Comply; Discharge Continues After Notice By City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit
Failure to Renew Permit	Permit Expired; No Application Submitted	NOV, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection
Discharge Limit Violations		
Exceedance of Local Limit, Permit Limit or Federal Standard	Random Violation; No Harm to POTW or Environment	Verbal Warning, Warning Notice, NOV, Resample discharge, Unannounced inspection, Unannounced City monitoring
	Random violation; Discharge Caused Harm to POTW or Environment	NOV, Resample discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil

Violation	Nature of Violation	Enforcement Response Option
		and/or Criminal Action
	Pattern Violation; No Harm to POTW or Environment	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action
	Pattern Violation; Discharge Caused Harm to POTW or Environment	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit
	Pattern Violation with Knowledge, Intent or Negligence	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit
Monitoring and Reporting Violations		
Reporting Violation	Report Improperly Signed or Certified	Verbal Warning, Warning Notice, NOV
	Report Improperly Signed or Certified After Notification By City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action

Violation	Nature of Violation	Enforcement Response Option
	Random Violation No Harm to POTW or Environment Report, Reported Less Than 30 Days Late	Verbal Warning, Warning Notice, NOV, Unannounced inspection
	Report late, 30 days or more	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Fees/Fines, Civil and/or Criminal Action
	Missing or Incomplete Information in Report	Verbal Warning, Warning Notice, NOV
	Failure to Correct Report with Missing or Incomplete Information After Notification by City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action
	Failure to Report Spill or Changed Discharge; No Harm to POTW or Environment	Verbal Warning, Warning Notice, NOV, Resample discharge, Unannounced inspection, Unannounced City monitoring
	Failure to Report Spill or Changed Discharge; Discharge Caused Harm to POTW or Environment	NOV, Resample discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil

Violation	Nature of Violation	Enforcement Response Option
		and/or Criminal Action
	Repeated Failure to Report Spills or Changed Discharge	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit
	Falsification of Information in Report	NOV, Show Cause Meeting, Administrative Order, Criminal and/or Civil Action, Terminate Sewer Connection, Revoke Permit
Failure to Monitor Correctly	Failure to Monitor All Pollutants as Required by Permit	Verbal Warning, Warning Notice, NOV
	Pattern Violation or Evidence of Intent	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil Action, Terminate Sewer Connection, Revoke Permit
Improper Sampling	Random Violation	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced

Violation	Nature of Violation	Enforcement Response Option
		City Monitoring
	Pattern violation or Evidence of Intent	NOV, Show Cause Meeting, Administrative Order, Criminal Action, Terminate Sewer Connection, Revoke Permit
Failure to Install Monitoring Equipment	Delay of 30 days or more after notification by City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit
Compliance Schedules	Missed Compliance Deadline by Less Than 30 Days	Verbal Warning, Warning Notice, NOV
	Missed Compliance Deadline by More Than 30 Days; USER Has Good Cause For Delay	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order
	Missed Compliance Deadline by More Than 30 Days; USER Does Not Have Good Cause For Delay	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit
	Pattern Violation or Violation	NOV, Show Cause Meeting,

Violation	Nature of Violation	Enforcement Response Option
	of Schedule in Administrative Order	Administrative Order, Fines, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit
Other Permit Violations		
Water Streams Diluted in Lieu of Treatment	Random Violation	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring
	Pattern Violation	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Fees/Fines, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit
Failure to Mitigate Noncompliance or Halt Production	Discharge Causes No Harm to POTW or Environment	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring
	Discharge Causes Harm to POTW or Environment	NOV, Resample Discharge, Compliance Meeting, Show Cause Meeting,

Violation	Nature of Violation	Enforcement Response Option
		Administrative Order, Civil and/or Criminal Action
Failure to Properly Operate and Maintain Pretreatment Facility	Random Violation	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring
	Pattern Violation	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit
Violations Observed During Site Visit/Inspection		
Entry Denial	Entry denied or Consent Withdrawn; Copies of Records Denied	Warning Notice, NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action
Illegal Discharge	Discharge Causes No Harm to POTW or Environment	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring

Violation	Nature of Violation	Enforcement Response Option
	Pattern Violation; No Harm to POTW or Environment	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order
	Discharge Causes Harm to POTW or Environment or There is Evidence of Intent or Negligence	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit
Improper Sampling	Incorrect Location, Sample Type, or Collection Procedure	Verbal Warning, Warning Notice, NOV, Resample discharge
Inadequate Record Keeping or Documentation	Files incomplete or Missing Information; Initial Violation	Verbal Warning, Warning Notice, NOV
	Pattern Violation After Notice From City to Correct	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action
Failure to Report Additional Monitoring	Inspector Finds additional Files/Records; Initial Violation	Verbal Warning, Warning Notice, NOV
	Pattern Violation After Notice From City to Correct	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Administrative Fines, Civil

Violation	Nature of Violation	Enforcement Response Option
		Action, Terminate Sewer Connection, Revoke Permit
Administrative Fines		
Un-Permitted Discharge	USER Aware of Requirement; Discharge Causes Harm to POTW or Environment	Up to $10,000 per day per violation
	Failure to Comply; Discharge Continues After Notice by City	Up to $25,000 per day per violation
Failure to Renew Permit	Permit Expired; No Application Submitted	Up to $10,000 per day per violation
Exceedance of Local Limit, Permit Limit or Federal Standard	Random Violation; Discharge Caused Harm to POTW or Environment	Up to $10,000 per day per violation
	Pattern Violation, 4 or More Violations Within Moving 12-Month Period; No Harm to POTW or Environment	Up to $10,000 per day per violation
	Pattern Violation, 2 or More Violations Within 90 Days; Discharge Causes Harm to POTW Or Environment	Up to $10,000 per day per violation

Violation	Nature of Violation	Enforcement Response Option
	Pattern Violation With Knowledge or Intent or Negligence	Up to $25,000 per day per violation
Reporting Violations	Report is Improperly Signed or Certified After Notification by City	Up to $1,000 per day per violation
	Report Late by 30 Days or More	Up to $1,000 per day per violation
	Failure to Correct Report With Missing or Incomplete Information After Notification by City	Up to $5,000 per day per violation
	Failure to Report Spill or Changed Discharge; Discharge Caused Harm to POTW or Environment	Up to $10,000 per day per violation
	Pattern Violation; Failure to Report Spills or Changed Discharge	Up to $10,000 per day per violation
	Falsification of Information Presented In Report	Up to $1,000 per day per violation
Failure to Monitor Correctly	Pattern Violation; Failure to	Up to $5,000 per day per

Violation	Nature of Violation	Enforcement Response Option
	Monitor Discharge	violation
Improper Sampling	Evidence of Intent	Up to $5,000 per day per violation
Failure to Install Monitoring Equipment	Delay of 30 Days or More After Notification by City	Up to $1,000 per day per violation
Compliance Schedule	Missed Compliance Deadline by More Than 30 Days; USER Has Good Cause For Delay	Up to $500 per day per violation
	Missed Compliance Deadline By More Than 30 Days; USER Does Not Have Good Cause For Delay	Up to $1,000 per day per violation
	Pattern Violation or Violation of Schedule in Administrative Order	Up to $5,000 per day per violation
Waste Streams are Diluted in Lieu of Treatment	Pattern Violation	Up to $5,000 per day per violation
Failure to Mitigate Noncompliance or Halt Production	Discharge Causes Harm to POTW or Environment	Up to $10,000 per day per violation

~~Violation~~	~~Nature of Violation~~	~~Enforcement Response Option~~
~~Entry Denial~~	~~Entry Denied or Consent Withdrawn; Copies of Records Denied~~	~~Up to $100 per day per violation~~
~~Illegal Discharge~~	~~Pattern Violation; No Harm to POTW or Environment~~	~~Up to $1,000 per day per violation~~
	~~Discharge Causes Harm to POTW or Environment or There is Evidence of Intent or Negligence~~	~~Up to $10,000 per day per violation~~
~~Inadequate Record Keeping or Documentation~~	~~Pattern Violation After Notice From City To Correct~~	~~Up to $5,000 per day per violation~~
~~Failure to report Additional Monitoring~~	~~Pattern Violation After Notice From City To Correct~~	~~Up to $5,000 per day per violation~~

(Ord. 14-1290, passed 3-3-2014)

§ 12A-8-19 Notices.

Any notice required to be provided by any City staff under this chapter shall be in writing and served in person or by certified mail, return receipt requested. The notice shall be served upon an authorized representative, at the last address known to the director or the occupants or owners of record of property upon which the alleged violations occurred. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-20 Emergency suspensions.

(A) The Director may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(B) Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the other proceeding initiated against the User preclude recommencing of the discharge.

(C) A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director.

(D) Nothing in this Section shall be interpreted as requiring a judicial proceeding or hearing prior to any emergency suspension under this section. For the purposes of this section, informal notice may mean either oral or written notice and does not mean actual notice. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-21 Performance bonds; Liability insurance; Contract award.

(A) The Director may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, or order issued hereunder, or any other applicable federal, state, or local Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, letter of credit, cash, or other security device, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance.

(B) The Director may decline to issue or reissue a wastewater discharge permit to any Person who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, other permit or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the Person first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(C) Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Director. (Ord. 14-1290, passed 3-3-2014)

Article 12A-8
ENFORCEMENT RESPONSE PLAN

Sections:

12A-8-1 Enforcement authority and responsibilities.
12A-8-2 Types of violations.
12A-8-3 Determining enforcement response.
12A-8-4 Enforcement actions.
12A-8-5 Issuance of notice of violation.
12A-8-6 Compliance meetings.
12A-8-7 Notice to show cause.
12A-8-8 Administrative orders.
12A-8-9 Administrative fines.
12A-8-10 Termination or suspension of permit.
12A-8-11 Revocation of permit.
12A-8-12 User appeal.
12A-8-13 Civil actions.
12A-8-14 Criminal actions.
12A-8-15 Liability of user.
12A-8-16 Judicial proceedings.
12A-8-17 Levels of action.
12A-8-18 Enforcement response actions.

12A-8-19 Notices.
12A-8-20 Emergency suspensions.
12A-8-21 Performance bonds; Liability insurance; Contract award.

§ 12A-8-1 Enforcement authority and responsibilities.

(A) The Enforcement Response Plan (ERP) outlines the procedures followed by City staff to identify, document, and respond to discharge violations in a manner appropriate to the nature of the violation. In addition, the ERP describes the responsibilities of the City's Pretreatment Program staff and procedures.

(B) The Director shall enforce and provide consistency in the implementation, application, regulation and enforcement of this chapter; approve enforcement actions; oversee proceedings; assess administrative fines and approve termination of water and wastewater services when appropriate. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-2 Types of violations.

(A) Determination of the appropriate enforcement response to noncompliance will vary based on the type and nature of the violation. User violations of monitoring, reporting, and treatment requirements may range from "relatively" minor violations (e.g., report submitted a week late but having no effluent violations) to significant violations. Each instance of noncompliance is a separate violation which will be reviewed and appropriately addressed.

(B) Types of violation include but are not limited to the following:

(1) Random Violation means any violation that exceeds a federal, Arizona, or local discharge limitation or compliance schedule. Random violations may include the first, second, or third offense and may not be severe or frequent enough to be classified as a Significant Violation or a Pattern Violation.

(2) Pattern Violation means any series of random violations (four or more) that is not severe or frequent enough to be classified as a Significant Violation, but which contribute to

a pattern of noncompliance when viewed over a moving 12-month period. Four random violations occurring during a moving 12-month period would constitute a Pattern Violation.

(3) Significant Noncompliance (SNC) Violation means any violation, which by its impact, severity, or frequency of occurrence presents a hazard or nuisance to the POTW, general public, or the environment. A User is considered to be in significant noncompliance if one or more of the following has occurred in the previous 12 months:

(a) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(b) Technical review criteria (TRC) violations which means 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable criteria to determine exceedance. Value for biochemical oxygen demand (BOD), total suspended solids (TSS), oil and grease is 1.4, value for other parameters except pH is 1.2;

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Director’s exercise of emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within 90 days of the scheduled date, a Compliance Schedule deadline contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide, within 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance; or

(h) Any other violation(s), which may include a violation of Best Management Practices, which the Public Works Director, in his sole discretion, determines will adversely affect the operation or implementation of the Pretreatment Program. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-3 Determining enforcement response.

(A) The appropriate enforcement response for violations and noncompliance with wastewater discharge City requirement will depend upon the severity and duration of the violation, compliance history, good faith efforts of the User to comply, harm caused by the violation, and whether the noncompliance resulted in a violation of the City POTW permit(s).

(B) The following sections describe factors that are evaluated as part of the process to determine the appropriate level of enforcement response:

(1) *Severity and Duration of Violation.* The City will evaluate the duration of the violation to determine the possible effects that may have occurred in the POTW. The assessment of each specific violation should take into account the volume and strength or concentration of the discharge. Depending on the severity, even an isolated violation could threaten public health and the environment, damage public and private property, or threaten the operational integrity of the POTW.

(2) *Compliance History of User.* The compliance history of the facility is reviewed prior to selecting the appropriate level of enforcement response. More aggressive enforcement actions will be taken when a facility has frequent violations. Also considered is the effectiveness of previous enforcement actions.

(3) *Good Faith Effort of User.* The City will consider the actions of the User, before and after a noncompliance incident, on a case-by-case basis to assess whether the User is acting in good faith.

(4) *Harm Caused by Violation.* Violations that have negative impacts to the POTW are typically considered significant. For example, violations may result in significant increases in treatment costs; interfere with operations; harm POTW personnel or equipment, cause

exceedances of the POTW permit limitations that result in fines from federal or Arizona agencies, or cause sludge contamination resulting in increased disposal costs. These violations may result in an administrative fine or civil fine and an Administrative Order to correct the violation, in addition to recovery of costs.

(5) *Noncompliance Discharge.* The Noncompliance that causes interference or pass-through of the POTW and results in a City permit violation will be addressed with formal enforcement actions and fines in order to ensure that adequate pretreatment and discharge compliance is achieved promptly. Enforcement actions may include injunctive measures in appropriate cases. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-4 Enforcement actions.

(A) Determination of the appropriate enforcement response to noncompliance will vary based on the type, nature and severity of the violation as provided in the Enforcement Response Table. Each act and each day of noncompliance will constitute a separate violation. Once noncompliance is determined, the City will provide notice of the violation(s) to the User. The type of notification will vary depending on the severity of the violation.

(B) The City may take the enforcement action determined appropriate by the City. The Enforcement Response Table is a guidelines and in no way is intended to limit the City's ability to pursue any and all action it deems appropriate and warranted based on the allegations and in whatever order is determined to be appropriate.

(1) *Inspection and Monitoring.* When permit or discharge violations occur, the City may perform an inspection of the facility to assess if the violation has been corrected and if the facility is operating normally. Inspections are typically not scheduled ahead of time. The User must allow the City access to the facility for sampling and inspection purposes within a reasonable timeframe from inspection notification.

(a) When the results of the User's self-monitoring, as required by the User's Permit, indicate that a violation has occurred, the User is required to repeat the sampling and analysis for the parameter in violation. The re-sampling must consist of a minimum of four consecutive days of monitoring with flow and discharge conditions consistent with the facility's Industrial Wastewater Discharge Permit. The analytical results of the

re-sampling must be submitted to the City within 30 days of the User becoming aware of the violation.

(2) *Informal Notification.*

(a) Verbal Warning Notice may be given for minor violations and involves the City notifying the User that a violation(s) has occurred, identifies the required corrective action(s) and the time frame in which the corrective action(s) must be completed. The City may also schedule additional inspections and/or sampling and/or any other action deemed appropriate by the City.

(b) Written Warning Notice may be given in writing for minor or moderate violations and involves the City notifying the User that a violation(s) has occurred, identifies the required corrective action(s) and the time frame in which the correction action(s) must be completed. The City may also schedule additional inspections and/or sampling and/or any other action deemed appropriate by the City.

(c) All enforcement actions will be documented in writing and placed in the Users pretreatment file. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-5 Issuance of notice of violation.

(A) *Notice of Violation (NOV).*

(1) Whenever the ~~ECS~~PC finds a User is in violation of any section of this Chapter, any provision and/or condition of the User's permit, compliance or corrective action order, or any other pretreatment standard requirement, the ~~ECS~~PC may serve, or cause to be served, an NOV to the User.

(2) The NOV shall be served on the User and identify the nature of the alleged violation, the specific time frame for follow-up and/or other corrective actions and include a statement that additional enforcement actions may be pursued by the City if corrective actions are not achieved as required.

(B) *Response to Notification of Violation.* The User shall respond in writing to the ~~ECS~~PC within the specified time frame, but not later than 15 calendar days from receipt of the NOV by the

User. The response shall provide an explanation of the violation and the corrective action taken. Submission of this response in no way relieves the User of criminal and civil liability for any violations occurring before or after receipt of the NOV.

(C) If the response to a NOV requires an order to show cause, the User shall respond by demonstrating why the Director should not ask the City Attorney to file a court action requesting injunctive relief and criminal and/or civil penalties.

(D) The ~~ECS~~PC will determine the validity or appropriateness of the response. If the ~~ECS~~PC finds the response to be appropriate and satisfactory, the NOV will be closed and recorded in the facility file as part of compliance history. Closure to the NOV will be documented in writing and provided to the User. Closure of the NOV does not preclude further enforcement action.

(E) *Deficient Response to Notification of Violation.* Upon review of a response to a notification of violation the ~~ECS~~PC finds the response to be deficient, the ~~ECS~~PC may require additional information, suspend or revoke the User's permit, order the User to cease discharge, and/or seek appropriate injunctive relief and criminal and/or civil penalties. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-6 Compliance meetings.

(A) Compliance Meetings are required when significant violations occur or when previous violations appear to remain uncorrected, as evidenced by repeated violations. Compliance Meetings between the User and City Pretreatment Program staff are scheduled as a last step to ensure compliance before pursuing a more stringent intervention, such as an order to cease further discharge. During a Compliance Meeting, a Compliance Schedule is developed and tracked by the ~~ECS~~PC. Compliance Meetings may be scheduled when any one of the following occurs, and at such other times deemed appropriate by the City:

(1) Discharge concentration exceeds five times the applicable discharge limit, or six times the applicable discharge limit for oil and grease;

(2) Discharge has a pH violation of less than 5.5 or greater than 9 for duration of 30 minutes or more and/or a volume greater than 100 gallons; or

(3) The IU has demonstrated a pattern of noncompliance, defined as inconsistent compliance for two consecutive quarters for the same parameter; four or more NOVs within a six-month period; or failure to respond to an NOV within 30 days of the due date.

(B) *Compliance Schedule.* When the discharger is found to be in noncompliance, a compliance schedule may be made part of an enforcement order. The deadline dates in the compliance schedule will be subject to the same civil penalties and will be as enforceable as a discharge limit. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-7 Notice to show cause.

(A) The Director may issue a Notice to Show Cause to a User which has violated, or continues to violate, any provision of this chapter; a wastewater discharge permit or compliance order; or any other pretreatment standard or requirement. A Notice to Show Cause meeting provides the User with the opportunity to present information to the Director about why a proposed enforcement action should not be taken. The notice will be served to the User specifying the time and place of the Show Cause meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken.

(B) The notice will be served personally or by registered or certified mail (return receipt requested) at least 10 calendar days prior to the meeting. A Show Cause meeting will not be a bar against, or prerequisite for, taking any other action against the User. The User may waive the right for a Show Cause meeting. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-8 Administrative orders.

The City may issue an Administrative Order requiring a facility to achieve compliance with pretreatment standards or other requirements of the City Code. The Administrative Order will place a facility on an enforceable compliance schedule or require immediate compliance. The City may require a facility to install treatment devices and/or to operate and maintain treatment equipment correctly. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-9 Administrative fines.

(A) Administrative Fines for violations of any provision of this chapter; a wastewater discharge permit or compliance order; or any other pretreatment standard or requirement may be assessed by the Director. Each day that a violation continues may constitute a separate violation.

(B) When determining the amount of an Administrative Fine, other factors including, but not limited to, compliance history, good faith by the User, nature and type of violation, and history of the User may be taken into account, as well as any economic benefit resulting from the violation, the economic impact of the penalty on the violator, and the severity of the violation. Administrative fines are as provided in the Administrative Fine Table 7-2, which outlines the administrative fines that may be assessed based on the type and nature of the violation.

(C) In the event the User and the City agree on the amount of the Administrative Fines to be paid by the User, the User and the City may enter into a Pretreatment Settlement Agreement to be negotiated by the parties. In the event the User and the City are not able to so agree, the City may file a Civil Action against the User in a court of competent jurisdiction as provided in this chapter. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-10 Termination or suspension of permit.

(A) The Director may issue a Cease and Desist Order to a User that has violated, or continues to violate, any provision of this chapter; a wastewater discharge permit or compliance order; or any other pretreatment standard or requirement. The City has the authority to immediately halt any actual or threatened discharge to the POTW that may represent an endangerment to public health, the environment, or the POTW. The Cease and Desist Order may direct the User to immediately comply with pretreatment standards and requirements and to take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(B) The Cease and Desist Order will be served personally or by registered or certified mail (return receipt requested). Issuance of a Cease and Desist Order will not be a bar against, or a prerequisite for, taking any other action against the User.

(C) Termination or suspension of discharge may be an appropriate response to facilities that have not complied with previous enforcement actions. This action is an administrative response, which may be implemented by the Director without initiating civil and/or criminal proceedings.

(D) Circumstances warranting termination or suspension of discharges include any of the following:

(1) Unpermitted discharge which results in violation of POTW permit(s);

(2) Any dangerous situation threatening human health, the environment, or the POTW;

(3) Discharges that exceed local limits or categorical discharge limits and/or result in damage to the environment or the POTW;

(4) Slug loads that result in interference, pass-through, or which may cause any dangerous situation threatening human health, the environment, or the POTW;

(5) Failure of the facility to notify the City of effluent violations of slug load discharge, or recurring slug loads, that causes any dangerous situation threatening human health, the environment, or the POTW;

(6) Failure of the facility to install monitoring equipment as required by an Administrative Order; and/or

(7) Any major violation of permit conditions or administrative action accompanied by evidence of negligence or intentional violation.

(E) The process for terminating or suspending a User's wastewater discharge permit is described below:

(1) The User will be provided written notification of the proposed termination or suspension, the basis for the proposed action and the date for the show cause meeting as provided in this chapter.

(2) If the User appears to have an actual or threatened discharge that may cause interference with the POTW or will present an imminent endangerment to the health, safety or welfare of any person or environment, or to the environment or pass-through interference, upset to, the POTW; the Director may immediately suspend any sewer service

connection to the POTW without a Show Cause meeting. In such cases, the User will be entitled to a meeting within five calendar days of the suspension/termination.

(3) Service will be restored only after compliance has been achieved to the satisfaction of the Director.

(F) When notified of a permit suspension, the user shall cease discharge of all industrial wastewater to the POTW.

(G) *Failure to Comply with Permit Suspension.* In the event of a failure of the User to comply voluntarily with the notification of permit suspension, the Director shall take such steps as necessary to insure compliance up to and including termination of service by court order or physical barrier.

(H) *Reinstatement of Suspended Permit.* The Director shall, by written statement, reinstate the user's permit upon proof of satisfactory compliance with all requirements of the notification of permit suspension/termination. Damages and costs incurred by the City, and administrative fee, in suspending the permit, disconnecting and/or reconnecting the User shall be paid for by the user before reinstatement of the permit. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-11 Revocation of permit.

(A) The Director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the Director in writing of significant changes to the wastewater prior to the change as required by this chapter;

(2) Failure to provide prior notification to the Director of changed conditions as required by this chapter;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self monitoring reports and certification statements;

(5) Tampering with monitoring or sampling equipment or a pretreatment device;

(6) Refusing to allow the Director immediate access to the facility premises and records;

(7) Exceeding effluent limitations;

(8) Failure to pay fines, costs or fees;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey; or

(12) Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this chapter.

(B) Any user whose permit has been revoked shall immediately cease all discharge of any industrial wastewater to the POTW.

(C) *Failure to Comply with Permit Revocation.* In the event of a failure of the user to comply voluntarily with the notification of permit revocation, the Director shall take such steps as necessary to insure compliance.

(D) *Resolution of Permit Revocation.* Before any further discharge of industrial wastewater may be made by the User, the User must apply for and obtain a new permit for industrial wastewater discharge, pay all charges that would be required upon initial application, and pay all delinquent fees, charges and such other sums as the user may owe to the county. Administrative fee assessed by the City in revoking the permit and disconnecting/reconnecting the industrial sewer shall be paid for by the user before issuance of a new permit.

(E) Wastewater discharge permits shall be automatically revoked upon cessation of operations or transfer of business ownership. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-12 User appeal.

An appeal may be made to the City Manager by filing a request with the City Clerk in the event that satisfactory resolution of Sections 12A-8-1, 12A-8-2, and 12A-8-3 is not agreed upon. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-13 Civil actions.

(A) The City has the authority to file a Civil Action against Users for violations of applicable pretreatment standards and seek injunctive relief, compliance, civil fines, and/or damages. Civil fines may be assessed in an amount up to $25,000 per violation per day in accordance with A.R.S. § 49-391. Filing Civil Actions is an appropriate enforcement response in the following situations:

(1) An emergency situation where injunctive relief is necessary to halt or prevent discharges which threaten human health, or the environment, or interfere with the POTW;

(2) When efforts to restore compliance through cooperation with the IU has failed and action is necessary to enforce Pretreatment Program requirements;

(3) To seek fines and other remedies in law, or equity, or statutory for violations;

(4) Any other situation deemed reasonable by the City for the protection of the public health, safety, and welfare of the community, POTW, or the environment.

(B) In instances that require filing a Civil Action, the ~~ECS~~PC will collect all pertinent information sufficient to support the complaint, and provide the information to the City Attorney. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-14 Criminal actions.

(A) Any person found guilty of violating any provision of this chapter or a User Wastewater Discharge Permit condition or requirement shall be guilty of a Class 1 misdemeanor, punishable by a fine not to exceed $2,500 for an individual and not more than $20,000 for an enterprise or by imprisonment for a period not to exceed six months, or by both fine and imprisonment. Each day that a violation continues shall be a separate offense.

(B) The City Attorney is authorized to seek criminal punishment for any person who violates pretreatment standards or any person who knowingly makes false statements in any report, application, record, or other document required by pretreatment regulations and City Code. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-15 Liability of user.

Any user who discharges, or causes the discharge of wastewaters which cause damage to the POTW, interference, pass-through, upset, or any other damages resulting in costs to the POTW shall be liable for all damages, costs, fees, fines and all other penalties resulting from or arising out of the user's actions. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-16 Judicial proceedings.

(A) *Initiation of Legal Action.* Whenever the Director finds that a user has violated any of the provisions of this chapter, the Director may ask the City Attorney to take appropriate legal action. This legal action may include, among other things, the following:

(1) Prohibitive injunctions;

(2) Mandatory injunctions for corrective action and cleanup, or other equitable relief;

(3) Civil penalties in accordance with this chapter;

(4) Criminal penalties, including restitution. In addition to any other restitution deemed appropriate by the Court, the Court may order that the violator pay restitution to reimburse the City for the costs and expenses incurred by the City as a result of the violation, including but not limited to those resulting from the enforcement, testing, emergency response and cleanup activities;

(5) Recovery of civil damages, penalties, and costs to the POTW.

(B) *Civil and Criminal Penalties for Violation.*

(1) The civil penalties for violation of any provision of this chapter, any part of a permit written and issued in compliance with this chapter and/or any requirement of a notification of violation written and issued in compliance with this chapter, shall not exceed $25,000 for each violation. For continuing violations, each day may constitute a separate offense. In determining the amount of a civil penalty the following shall be taken into consideration:

(a) The seriousness of the violation.

(b) The economic benefit, if any, resulting from the violation.

(c) Any history of such violation.

(d) Any good faith efforts to comply with the applicable requirements.

(e) The economic impact of the penalty on the violator.

(f) Such other factors as justice may require.

(C) The civil penalties for non-submittal of reports, noncompliance with the reporting and/or application requirements required in this chapter or permit, or failure to complete an increment of progress of a compliance schedule, shall not exceed $1,000 for each day in which the requirements are not fulfilled.

(D) Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of 10% of the unpaid balance, and interest shall accrue thereafter at a rate of 1% per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

(E) Any person who attempts to deceive a government agency by submitting documents to the agency or by making statements to a representative of the agency which they know to be false, or by destroying or concealing or refusing to deliver papers or records required by the agency to be kept for its information, is subject to prosecution for tampering with a public record, or fraudulent schemes and practices. Tampering with a public record and fraudulent schemes and practices are both felony violations pursuant to Arizona Revised Statutes.

(F) Any violation of any provision of ~~t~~his chapter, a wastewater discharge permit, or order issued hereunder, by any Person, are class 1 misdemeanors and may be pursued civilly and criminally subject to the penalties provided herein, Article 1-8, Chapter 18, A.R.S. § 49-391 and as provided by law. Each day any violation of any provision of this code or any ordinance incorporated herein, or the failure to perform any act or duty required by this code or ordinance incorporated herein, continues shall constitute a separate offense.

(G) The remedies provided for in this chapter are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the Chapter. However, the Director has the discretion to take other action against any User which the Director deems to be

appropriate under the circumstances. Further, the Director is empowered to take more than one enforcement action against any noncompliant User. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-17 Levels of action.

(A) *Enforcement of Judicial Action.* Participation in any communication concerning violations will not exempt a User from formal enforcement or judicial action.

(B) *Written Permission Requirement.* Any permission required by a User from the Director must be in writing.

(C) *Separate Actions.* Any judicial proceedings initiated because of a violation of any section of this chapter shall not exempt a User from any judicial proceedings initiated because of a violation of any other provision of this chapter. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-18 Enforcement response actions.

(A) The following chart identifies violations and the general enforcement response options that may be taken by the City. The chart is intended to be a reference only, and is not intended to identify all possible violations or limit the City's response to a violation. At all times the City retains the right to take any enforcement action, in response to an identified violation, which it deems appropriate including all civil and/or criminal actions available by law. All enforcement response options include the possible imposition of fees, fines, costs, reasonable attorney fees, court costs and any and all other expenses associated with inspection, and enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

(B) *Enforcement Response Chart.*

Violation	Nature of Violation	Enforcement Response Option

Violation	Nature of Violation	Enforcement Response Option
Un-Permitted Discharges		
Un-Permitted Discharge	User Aware Of Requirement; No Harm to the POTW Or Environment	Verbal Warning, Warning Notice, NOV With Permit Application Form, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring
	User Aware Of Requirement; Discharge Causes Harm to the POTW Or Environment	NOV, Resample Discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action
	Failure To Comply; Discharge Continues After Notice By City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit
Failure to Renew Permit	Permit Expired; No Application Submitted	NOV, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection
Discharge Limit Violations		
Exceedance of Local Limit,	Random Violation; No Harm	Verbal Warning, Warning

Violation	Nature of Violation	Enforcement Response Option
Permit Limit or Federal Standard	to POTW or Environment	Notice, NOV, Resample discharge, Unannounced inspection, Unannounced City monitoring
	Random violation; Discharge Caused Harm to POTW or Environment	NOV, Resample discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action
	Pattern Violation; No Harm to POTW or Environment	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action
	Pattern Violation; Discharge Caused Harm to POTW or Environment	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit
	Pattern Violation with Knowledge, Intent or Negligence	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit
Monitoring and Reporting Violations		

Violation	Nature of Violation	Enforcement Response Option
Reporting Violation	Report Improperly Signed or Certified	Verbal Warning, Warning Notice, NOV
	Report Improperly Signed or Certified After Notification By City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action
	Random Violation No Harm to POTW or Environment Report, Reported Less Than 30 Days Late	Verbal Warning, Warning Notice, NOV, Unannounced inspection
	Report late, 30 days or more	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Fees/Fines, Civil and/or Criminal Action
	Missing or Incomplete Information in Report	Verbal Warning, Warning Notice, NOV
	Failure to Correct Report with Missing or Incomplete Information After Notification by City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action
	Failure to Report Spill or Changed Discharge; No	Verbal Warning, Warning Notice, NOV, Resample

Violation	Nature of Violation	Enforcement Response Option
	Harm to POTW or Environment	discharge, Unannounced inspection, Unannounced City monitoring
	Failure to Report Spill or Changed Discharge; Discharge Caused Harm to POTW or Environment	NOV, Resample discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action
	Repeated Failure to Report Spills or Changed Discharge	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit
	Falsification of Information in Report	NOV, Show Cause Meeting, Administrative Order, Criminal and/or Civil Action, Terminate Sewer Connection, Revoke Permit
Failure to Monitor Correctly	Failure to Monitor All Pollutants as Required by Permit	Verbal Warning, Warning Notice, NOV
	Pattern Violation or Evidence of Intent	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil

Violation	Nature of Violation	Enforcement Response Option
		Action, Terminate Sewer Connection, Revoke Permit
Improper Sampling	Random Violation	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring
	Pattern violation or Evidence of Intent	NOV, Show Cause Meeting, Administrative Order, Criminal Action, Terminate Sewer Connection, Revoke Permit
Failure to Install Monitoring Equipment	Delay of 30 days or more after notification by City	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit
Compliance Schedules	Missed Compliance Deadline by Less Than 30 Days	Verbal Warning, Warning Notice, NOV
	Missed Compliance Deadline by More Than 30 Days; USER Has Good Cause For Delay	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order

Violation	Nature of Violation	Enforcement Response Option
	Missed Compliance Deadline by More Than 30 Days; USER Does Not Have Good Cause For Delay	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit
	Pattern Violation or Violation of Schedule in Administrative Order	NOV, Show Cause Meeting, Administrative Order, Fines, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit
Other Permit Violations		
Water Streams Diluted in Lieu of Treatment	Random Violation	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring
	Pattern Violation	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Fees/Fines, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit
Failure to Mitigate Noncompliance or Halt	Discharge Causes No Harm	Verbal Warning, Warning Notice, NOV, Resample

Violation	Nature of Violation	Enforcement Response Option
Production	to POTW or Environment	Discharge, Unannounced Inspection, Unannounced City Monitoring
	Discharge Causes Harm to POTW or Environment	NOV, Resample Discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action
Failure to Properly Operate and Maintain Pretreatment Facility	Random Violation	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring
	Pattern Violation	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit
Violations Observed During Site Visit/Inspection		
Entry Denial	Entry denied or Consent Withdrawn; Copies of Records Denied	Warning Notice, NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil

Violation	Nature of Violation	Enforcement Response Option
		and/or Criminal Action
Illegal Discharge	Discharge Causes No Harm to POTW or Environment	Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring
	Pattern Violation; No Harm to POTW or Environment	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order
	Discharge Causes Harm to POTW or Environment or There is Evidence of Intent or Negligence	NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit
Improper Sampling	Incorrect Location, Sample Type, or Collection Procedure	Verbal Warning, Warning Notice, NOV, Resample discharge
Inadequate Record Keeping or Documentation	Files incomplete or Missing Information; Initial Violation	Verbal Warning, Warning Notice, NOV
	Pattern Violation After Notice From City to Correct	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action

Violation	Nature of Violation	Enforcement Response Option
Failure to Report Additional Monitoring	Inspector Finds additional Files/Records; Initial Violation	Verbal Warning, Warning Notice, NOV
	Pattern Violation After Notice From City to Correct	NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Administrative Fines, Civil Action, Terminate Sewer Connection, Revoke Permit
Administrative Fines		
Un-Permitted Discharge	USER Aware of Requirement; Discharge Causes Harm to POTW or Environment	Up to $10,000 per day per violation
	Failure to Comply; Discharge Continues After Notice by City	Up to $25,000 per day per violation
Failure to Renew Permit	Permit Expired; No Application Submitted	Up to $10,000 per day per violation
Exceedance of Local Limit, Permit Limit or Federal Standard	Random Violation; Discharge Caused Harm to POTW or Environment	Up to $10,000 per day per violation
	Pattern Violation, 4 or More Violations Within Moving	Up to $10,000 per day per violation

Violation	Nature of Violation	Enforcement Response Option
	12-Month Period; No Harm to POTW or Environment	
	Pattern Violation, 2 or More Violations Within 90 Days; Discharge Causes Harm to POTW Or Environment	Up to $10,000 per day per violation
	Pattern Violation With Knowledge or Intent or Negligence	Up to $25,000 per day per violation
Reporting Violations	Report is Improperly Signed or Certified After Notification by City	Up to $1,000 per day per violation
	Report Late by 30 Days or More	Up to $1,000 per day per violation
	Failure to Correct Report With Missing or Incomplete Information After Notification by City	Up to $5,000 per day per violation
	Failure to Report Spill or Changed Discharge; Discharge Caused Harm to POTW or Environment	Up to $10,000 per day per violation

Violation	Nature of Violation	Enforcement Response Option
	Pattern Violation; Failure to Report Spills or Changed Discharge	Up to $10,000 per day per violation
	Falsification of Information Presented In Report	Up to $1,000 per day per violation
Failure to Monitor Correctly	Pattern Violation; Failure to Monitor Discharge	Up to $5,000 per day per violation
Improper Sampling	Evidence of Intent	Up to $5,000 per day per violation
Failure to Install Monitoring Equipment	Delay of 30 Days or More After Notification by City	Up to $1,000 per day per violation
Compliance Schedule	Missed Compliance Deadline by More Than 30 Days; USER Has Good Cause For Delay	Up to $500 per day per violation
	Missed Compliance Deadline By More Than 30 Days; USER Does Not Have Good Cause For Delay	Up to $1,000 per day per violation
	Pattern Violation or Violation of Schedule in Administrative Order	Up to $5,000 per day per violation

Violation	Nature of Violation	Enforcement Response Option
Waste Streams are Diluted in Lieu of Treatment	Pattern Violation	Up to $5,000 per day per violation
Failure to Mitigate Noncompliance or Halt Production	Discharge Causes Harm to POTW or Environment	Up to $10,000 per day per violation
Entry Denial	Entry Denied or Consent Withdrawn; Copies of Records Denied	Up to $100 per day per violation
Illegal Discharge	Pattern Violation; No Harm to POTW or Environment	Up to $1,000 per day per violation
	Discharge Causes Harm to POTW or Environment or There is Evidence of Intent or Negligence	Up to $10,000 per day per violation
Inadequate Record Keeping or Documentation	Pattern Violation After Notice From City To Correct	Up to $5,000 per day per violation
Failure to report Additional Monitoring	Pattern Violation After Notice From City To Correct	Up to $5,000 per day per violation

(Ord. 14-1290, passed 3-3-2014)

§ 12A-8-19 Notices.

Any notice required to be provided by any City staff under this chapter shall be in writing and served in person or by certified mail, return receipt requested. The notice shall be served upon an authorized representative, at the last address known to the director or the occupants or owners of record of property upon which the alleged violations occurred. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-20 Emergency suspensions.

(A) The Director may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(B) Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the other proceeding initiated against the User preclude recommencing of the discharge.

(C) A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director.

(D) Nothing in this Section shall be interpreted as requiring a judicial proceeding or hearing prior to any emergency suspension under this section. For the purposes of this section, informal notice may mean either oral or written notice and does not mean actual notice. (Ord. 14-1290, passed 3-3-2014)

§ 12A-8-21 Performance bonds; Liability insurance; Contract award.

(A) The Director may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, or order issued hereunder, or any other applicable federal, state, or local Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, letter of credit, cash, or other security device, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance.

(B) The Director may decline to issue or reissue a wastewater discharge permit to any Person who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, other permit or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the Person first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(C) Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Director. (Ord. 14-1290, passed 3-3-2014)

Article 12A-10
MISCELLANEOUS PROVISIONS

Sections:

12A-10-1	**Water and sewer service severance.**
12A-10-2	**Penalties for late reports.**
12A-10-3	**Payment of outstanding fees and penalties.**
12A-10-4	**Public nuisances.**
12A-10-5	**Contractor listing.**
12A-10-6	**Pretreatment charges and fees.**

§ 12A-10-1 Water and sewer service severance.

Whenever a User has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other applicable federal, state, or local Pretreatment Standard or Requirement, water service and/or sewer service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated to the Director that it is able and will comply. (Ord. 14-1290, passed 3-3-2014)

§ 12A-10-2 Penalties for late reports.

A penalty set by resolution of council shall be assessed to any User for each day that a report required by this chapter, a permit or order issued hereunder is late; beginning five days after the date the report is due. The daily penalty amount will be increased when the reports are more than 15 days late. Any actions taken by Director to collect late reporting penalties shall not limit the Director's authority to initiate other enforcement actions that may include penalties for late reporting violations. (Ord. 14-1290, passed 3-3-2014)

§ 12A-10-3 Payment of outstanding fees and penalties.

The Director may decline to issue or reissue an individual wastewater discharge permit, or other permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this chapter, a previous individual wastewater discharge permit, or other permit or order issued hereunder. (Ord. 14-1290, passed 3-3-2014)

§ 12A-10-4 Public nuisances.

A violation of any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any person(s) creating a public nuisance shall be subject to the provisions of City Code governing such

nuisances, and shall be required to reimburse the City for any costs incurred in removing, abating, or remedying said nuisance. (Ord. 14-1290, passed 3-3-2014)

§ 12A-10-5 Contractor listing.

Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Director. (Ord. 14-1290, passed 3-3-2014)

§ 12A-10-6 Pretreatment charges and fees.

(A) The City council by resolution may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program, which may include:

(B) Fees for wastewater discharge permit applications including but not limited to the following:

(1) Cost of processing applications;

(2) Initial application and annual permitting fees;

(3) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users;

(4) Fees for reviewing and responding to accidental discharge procedures;

(5) Fees for reviewing plans and inspection for construction;

(6) Fees for filing appeals; and

(7) Other fees as the City may deem appropriate to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the City. (Ord. 14-1290, passed 3-3-2014)

ITEM #: 5.
DATE: 09/25/2023
AI #:1595

CITY COUNCIL ACTION REPORT

SUBJECT: AMEND ARTICLE 14-11 (BACKFLOW CONTROL AND CROSS-CONNECTION PROGRAM) OF THE GOODYEAR CITY CODE

STAFF PRESENTER(S): Todd Carpenter, Deputy Water Services Director; Barbara Chappell, Water Services Director

SUMMARY

Adoption of this Ordinance will amend Article 14-11 of the Goodyear City Code to update definitions and responsibilities between owners and City in regard to backflow control and the cross-connection program.

STRATEGIC PLAN ALIGNMENT



RECOMMENDATION

1. ADOPT RESOLUTION NO. 2023-2335 DECLARING AS PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND TITLED “AMENDING ARTICLE 14-11 (BACKFLOW CONTROL AND CROSS-CONNECTION PROGRAM) OF THE GOODYEAR CITY CODE.”

2. ADOPT ORDINANCE NO. 2023-1582 AMENDING ARTICLE 14-11 (BACKFLOW CONTROL AND CROSS-CONNECTION PROGRAM) OF THE GOODYEAR CITY CODE; PROVIDING FOR CORRECTIONS, SEVERABILITY, PENALTIES, AND AN EFFECTIVE DATE. (Todd Carpenter, Deputy Water Services Director and Barbara Chappell, Water Services Director)

FISCAL IMPACT

Approval of the amendment will not have a fiscal impact to the backflow program or the annual operations and maintenance budget. The amendment provides more options to private owners in getting their backflow testing annually, which has the possibility of lowering their costs due to competition between backflow testing companies.

BACKGROUND AND PREVIOUS ACTIONS

Article 14-11 (Backflow Control and Cross-Connection Program), originally adopted in February 2008, restricted authorized backflow assembly testers to those certified by the American Backflow Prevention Association. This caused scheduling issues and is financially restrictive for those doing business in Goodyear. Additionally, it is not consistent with Arizona Administrative Code §R18-4-215.

STAFF ANALYSIS

After receiving feedback from the Goodyear business community, staff recommends removal of the current restrictive outdated requirements and replacement with language consistent with Arizona Administrative Code, while providing equivalent protection of potable water.

The following language has been added to clarify those responsible for managing backflow devices:

1. Backflows that protect the public water system are to be tested by the owner annually. Goodyear staff is responsible for ensuring this is completed.

2. Backflows that protect privately owned water systems are to be tested by the owner annually. Owners are responsible for completing this annual requirement.

3. Backflows owned by the city of Goodyear must be tested and maintained annually. Goodyear staff is responsible for managing this program.

Attachments

Resolution 2023-2335

Ordinance 2023-1582

REDLINED VERSION - Article 14-11 Backflow Updates

RESOLUTION NO. 2023-2335

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, DECLARING AS PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND TITLED "AMENDING ARTICLE 14-11 (BACKFLOW CONTROL AND CROSS-CONNECTION PROGRAM) OF THE GOODYEAR CITY CODE."

Be it resolved by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, as follows:

SECTION 1. DECLARATION OF PUBLIC RECORDS

That certain document titled "Amendment to the Goodyear City Code Article 14-11 Backflow Control and Cross-Connection Program," a copy of which is attached hereto as Exhibit A, is hereby declared a public record.

SECTION 2. PURPOSE

The aforementioned documents are declared public records in connection with the adoption of Ordinance 2023-1582.

SECTION 3. COPIES FILED WITH THE CITY CLERK

Either three paper copies or one paper copy and one electronic copy maintained in compliance with section A.R.S 44-7041 of each of the aforementioned documents being declared public records herein are ordered to remain on file with the City Clerk and to be available for public use and inspection during regular business hours.

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:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

EXHIBIT "A"

AMENDMENT TO THE GOODYEAR CITY CODE ARTICLE 14-11 BACKFLOW CONTROL AND CROSS-CONNECTION PROGRAM

Upon Council Approval of Ordinance No. 2023-1582, Article 14-11 of Chapter 14 of the Goodyear City Code is hereby amended by deleting and replacing, in its entirety, all sections and subsections of Article 14-11, Backflow Control and Cross-Connection Program, to read as follows:

Article 14-11

BACKFLOW CONTROL AND CROSS-CONNECTION PROGRAM

Sections:

14-11-1 Cross connection: Backflow prevention.

14-11-2 Installation of and responsibilities for approved backflow prevention assemblies.

14-11-3 Testing and inspections.

14-11-4 Backflow prevention assembly installation.

14-11-5 Fees.

14-11-6 Exceptions.

14-11-7 Compliance with fire code.

§ 14-11-1 Cross connection: Backflow prevention.

(A) Cross-connection shall be prevented and eliminated from plumbing systems, wherever found, and adequate backflow prevention devices shall be used to prevent contamination of the water supply.

(B) No person shall do any of the following:

(1) Allow cross-connection to the public water system;

(2) Fail to install an approved backflow prevention assembly as required by City Code, design standards, and standard details;

(3) Fail to properly use, maintain, test, and certify a backflow prevention assembly; or

(4) Alter, remove, or bypass a backflow prevention assembly.

(C) Violation of this section may result in the disconnection from the City water system and the imposition of all criminal and civil penalties available by law and restitution. Restitution would include but is not limited to the costs and fees associated with flushing the line(s), laboratory testing and bringing the public water system back in compliance with all Federal, State and county law and guidelines.

§ 14-11-2 Installation of and responsibilities for approved backflow prevention assemblies.

(A) All existing, new or replacement service connections to a public water system shall be fitted with backflow prevention assemblies, hereinafter referred to as assemblies. Assemblies shall be installed and continuously maintained at the customer's expense to prevent the entry of any substance whatsoever into the public water system, whether by backpressure (overpressure) on the customer side of the meter or by back-siphonage (vacuum) on the public side. These assemblies shall be maintained, tested, and certified as provided in this chapter.

(B) Maintenance, testing, and certification of assemblies or other devices on the customer's side of the meter box, be it for containment (water system protection), or for isolation (irrigation systems, fire systems, and the like) is the responsibility of the property owner and/or the person occupying or using the property. The presence of an assembly in a service connection shall not modify or reduce any other requirement of the Plumbing Code adopted by the City and Arizona Administrative Code.

(C) Temporary or construction service connections shall meet the same backflow prevention requirements as permanent connections.

§ 14-11-3 Testing and inspections.

All connections to a public water system and assemblies which are required by applicable Federal, State, county, local or other regulations to be tested annually shall be the responsibility of the property owner and/or the person occupying or using the property each calendar year. In instances where such connections or assemblies could pose a hazard to the public water system, the Environmental Programs Division may require more frequent testing Programs.

(A) Testing shall be performed by a person who is currently certified as a "general" tester as defined in Arizona Administrative Code §R18-4-215. Testers working in Goodyear must register with the Environmental Programs Division.

(B) City staff will conduct inspections required under this section to determine whether cross-connection or other sanitary hazards or violations of this article or other provisions of this chapter exist.

(C) The City shall maintain records on the certification status of containment assemblies and shall notify the customer or responsible party in writing if an assembly is due for a recertification test.

(D) If the inspection or testing reveals the assembly or the method of backflow protection to be defective or in unsatisfactory operating condition or otherwise in a non-permitted condition under this chapter, the tester/inspector shall notify the customer or responsible party and the Environmental Programs Division in writing. Any necessary repairs, including replacement or overhaul of the assembly, which will return the assembly to satisfactory operating condition shall be performed by the customer or responsible party within 30 days, at the customer's expense. After completion of repairs, the property owner shall have the assembly retested and provide the test and repair results to the Environmental Programs Division within a reasonable time period, not to exceed 10 days.

(1) It shall be the duty of the person doing the repair, replacement, or overhaul to notify the Environmental Programs Division in writing that said work is completed. Such notification shall be given not less than 24 hours before the work is to be inspected and shall be given only if there is reason to believe that all work shall comply with current University of Southern California Standards as referenced in the Manual of Cross-Connection Control.

(2) The customer shall maintain records of the results of all tests, repairs, overhauls or replacements of assemblies or permitted methods of backflow prevention. Within 10 days of test completion, a copy of the test results, tester certification, and verification that the tester's instrument was properly calibrated shall be provided to and recorded by the Environmental Programs Division. Recordkeeping will comply with the City's policy on record retention.

§ 14-11-4 Backflow prevention assembly installation.

(A) A backflow prevention assembly shall be installed on the customer side and adjacent to the meter. Where construction or equipment location presents siting problems for the assembly, a

location variance may be granted by the City through its Developmental Services Department. Requests will be in writing and must be approved prior to the installation of the assembly. In all cases, the assembly must be installed before the first branch line leading off the service line. The type of assembly required regardless of the degree of hazard shall be an approved reduced pressure principle backflow prevention assembly, unless otherwise provided in City guidelines.

(1) Auxiliary Water Supply. In the case of any premises where there is an auxiliary water supply, whether or not directly connected with a municipal water distribution system, the municipal water distribution system shall be protected by an approved air-gap method or an approved reduced pressure principle backflow prevention assembly.

(B) Assemblies and methods shall be installed by the consumer, at the consumer's expense.

(1) Prior to installation of any assembly, customers must obtain an installation permit from the Development Services Department. A separate permit shall be obtained for each assembly to be installed, including replacement.

(2) It shall be the duty of the person doing the work authorized by the permit to notify the DSD Department in writing that work is ready for inspection. Such notification shall be given not less than 24 hours before the work is to be inspected and shall be given only if there is reason to believe that the work done will meet current Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California University Standards, as referred to in the Manual of Cross-Connection Control.

(C) The City shall maintain a list of backflow prevention assemblies by type and manufacturer. The list shall be available to any customer required to install a backflow prevention assembly, together with instructions for proper installation.

§ 14-11-5 Fees.

To defray the City's costs in administering the Cross Connection Program, a monthly fee shall be charged to each customer connected into a public water system. All fees pursuant to this section shall be established by resolution of Council.

§ 14-11-6 Exceptions.

No bypassing of required assemblies or methods of backflow prevention shall be allowed under any circumstances excepting fire emergency.

§ 14-11-7 Compliance with fire code.

The Goodyear Municipal Code, the City of Goodyear's Fire Code, Federal, State, and local law may contain requirements that must be met in addition to the provisions of this chapter.

ORDINANCE NO. 2023-1582

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AMENDING ARTICLE 14-11 (BACKFLOW CONTROL AND CROSS-CONNECTION PROGRAM) OF THE GOODYEAR CITY CODE; PROVIDING FOR CORRECTIONS, SEVERABILITY, PENALTIES, AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and Council of the City of Goodyear have determined that the public health, safety, and welfare of the City of Goodyear and its citizens require certain amendments and additions to be made to Article 14-11 to address the City's Backflow Control and Cross-Connection Program; and

WHEREAS, the Mayor and Council of the City of Goodyear, Arizona, believe it is in the best interest of the City to amend and replace Article 14-11 Backflow Control and Cross-Connection Program of Chapter 14 (Water) of the Goodyear City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. AMENDING AND REPLACING ARTICLE 14-11 BACKFLOW CONTROL AND CROSS-CONNECTION PROGRAM

Article 14-11 entitled Backflow Control and Cross-Connection Program is hereby amended by deleting and replacing in its entirety all sections and subsections, as set forth in that certain document titled, "Amendment to the Goodyear City Code Article 14-11 Backflow Control and Cross-Connection Program," which is attached as Exhibit A to Resolution No. 2023-2335 and is declared a public record, three copies of which are on file with the City Clerk of the City of Goodyear and which is referred to, adopted and made a part hereof as if fully set forth in this Ordinance.

SECTION 2. CORRECTIONS

The 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 3. 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 4. PENALTIES

All violations of Chapter 14 are subject to criminal and civil penalties and enforcement provisions, including abatement, collections, and liens, pursuant to Article 1-8 and Article 18-1 of the Goodyear City Code.

SECTION 4. EFFECTIVE DATE:

This Ordinance shall become effective as prescribed by law.

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:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

Article 14-11
BACKFLOW CONTROL AND CROSS-CONNECTION PROGRAM

Sections:

14-11-1 Cross connection: Backflow prevention.

14-11-2 Installation of and responsibilities for approved backflow prevention assemblies.

14-11-3 Testing and inspections.

14-11-4 Backflow prevention assembly installation.

14-11-5 Fees.

14-11-6 Exceptions.

14-11-7 Compliance with fire code.

§ 14-11-1 Cross connection: Backflow prevention.

(A) Cross-connection shall be prevented and eliminated from plumbing systems, wherever found, and adequate ~~back flow~~backflow prevention devices shall be used to prevent contamination of the water supply.

(B) No person shall do any of the following:

(1) Allow cross-connection to the public water system;

(2) Fail to install an approved backflow prevention assembly as required by City Code, ~~guidelines and~~ design standards, and standard details;

(3) Fail to properly use, maintain, test, and certify a backflow prevention assembly; or

(4) Alter, remove, or bypass a backflow prevention assembly.

(C) Violation of this section may result in the disconnection from the City water system and the imposition of all criminal and civil penalties available by law and restitution. ~~which~~ Restitution would include but is not limited to the costs and fees associated with flushing the line(s), laboratory testing, and bringing the public water system back in compliance with all

Federal, State and county law and guidelines. (Ord. 08-1101, passed 2-25-2008; Am. Ord. 14-1299, passed 8-18-2014. Formerly 14-13-2)

§ 14-11-2 Installation of and responsibilities for approved backflow prevention assemblies.

(A) All existing, new or replacement service connections to a public water system shall be fitted with backflow prevention assemblies, hereinafter referred to as assemblies. Assemblies shall be installed and continuously maintained at the customer's expense to prevent the entry of any substance whatsoever into the public water system, whether by backpressure (overpressure) on the customer side of the meter or by back-siphonage (vacuum) on the public side. These assemblies shall be maintained, tested, and certified as provided in this chapter.

(B) Maintenance, testing, and certification of assemblies or other devices on the customer's side of the meter box, be it for containment (water system protection), or for isolation (irrigation systems, fire systems, ~~water softeners,~~ and the like) is the responsibility of the property owner and/or the person occupying or using the property. The Presence of an assembly in a service connection shall not modify or reduce any other requirement of the Plumbing Code adopted by the City and Arizona Administrative Code.

(C) Temporary or construction service connections shall meet the same backflow prevention requirements as permanent connections. (Ord. 08-1101, passed 2-25-2008; Am. Ord. 14-1299, passed 8-18-2014. Formerly 14-13-3)

§ 14-11-3 Testing and inspections.

All connections to a public water system and assemblies which are required by applicable Federal, State, county, local or other regulations to be tested annually shall be the responsibility of the property owner and/or the person occupying or using the property each calendar year. In instances where such connections or assemblies could pose a hazard to the public water system, the Environmental Programs Division may require ~~shall be subject to~~ more frequent ~~treating~~ testing ~~at the sole discretion of the Environmental Services~~Programs ~~Division.~~

(A) Testing shall be performed by a person who is currently certified as a "general" tester as defined in Arizona Administrative Code §R18-4-215. ~~The testing required under this section shall be carried out by a person who is currently certified as a general tester by the American Backflow Prevention Association.~~ Testers working Goodyear must register with the Environmental Programs Divisions.

(B) City staff will conduct ~~The~~ inspections required under this section ~~shall be conducted~~ to determine whether cross-connection or other sanitary hazards or violations of this article or other provisions of this chapter exist. ~~Such Inspections shall be conducted by the City.~~

(C) ~~In the case where, because of security requirements or other prohibitions or restrictions, it will be impossible or impractical to make a complete in-plant inspection, the public water system shall be protected~~[MR1] ~~by an air-gap or reduced pressure principle assembly approved by the Environmental Services~~Programs ~~Division.~~

(D~~) In the case where, because of the complexity of the piping system serving the premises, it will be difficult or impractical to make a complete inspection or to ascertain whether any cross-connections exist which affect the public water system, an air-gap or reduced pressure principle assembly shall be used.~~

(E) The City shall maintain records on the certification status of ~~commercial~~ containment assemblies and shall ~~immediately~~ notify the customer or responsible party in writing if an assembly is due for a recertification test.

(F) If the inspection or testing reveals the assembly or the method of backflow protection to be defective or in unsatisfactory operating condition or otherwise in a non-permitted condition under this chapter, the tester/inspector shall notify the customer or responsible party and the Environmental ~~Services~~Programs Division in writing. Any necessary repairs, including replacement or overhaul of the assembly, which will return the assembly to satisfactory operating condition shall be performed by the customer or responsible party within ~~10~~ 30 days, at the customer's expense. After completion of repairs, the property owner shall have the assembly retested and provide the test and repair results to the Environmental ~~Services~~Programs Division within a reasonable time period, not to exceed 10 days.

(1) It shall be the duty of the person doing the repair, replacement or overhaul to notify the Environmental ~~Services~~Programs Division ~~verbally or~~ in writing that said work is completed. Such notification shall be given not less than 24 hours before the work is to be

inspected and shall be given only if there is reason to believe that all work shall comply with current University of Southern California Standards as referenced in the Manual of Cross-Connection Control.

(2) The customer shall maintain records~~, on forms approved by the Environmental Services Division,~~ of the results of all tests, ~~services,~~ repairs, overhauls or replacements of assemblies or permitted methods of backflow prevention. Within 10 days of test completion, a copy of the test results, tester certification, and verification that the tester's instrument was properly calibrated shall be provided to ~~and kept on file~~and recorded by the Environmental ~~Services~~Programs Division. ~~after completion of the activity for which the record was made until destruction thereof can be made in connection with the~~Recordkeeping will comply with the City's policy on record retention. (Ord. 06-1012, passed 6-26-2006; Am. Ord. 14-1299, passed 8-18-2014. Formerly 14-13-4)

§ 14-11-4 Backflow prevention assembly installation.

(A) A backflow prevention assembly shall be installed on the customer side and adjacent to the meter. Where construction or equipment location presents siting problems for the assembly, a location variance may be granted by the City through its ~~Environmental Services Division,~~Developmental Services Department. Requests ~~provided such request is~~ will be ~~made~~ in writing and must be approved ~~val is granted~~ prior to the installation of the assembly~~;~~. ~~I~~In all cases, the assembly must be installed before the first branch line leading off the service line. The type of assembly required regardless of the degree of hazard shall be an approved reduced pressure principle backflow prevention assembly, unless otherwise provided in City guidelines.

(1) ~~*Contamination.* In the case of any premises where any condition, device, practice or material may create an actual or potential introduction of water or substance which would be hazardous to the public health into a public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly at the service connection to the premises.~~

~~(2) *Plumbing.* In the case of any premises where there are conditions as defined in this chapter, either actual or potential, the public water system shall be protected by an~~

~~approved air-gap method or an approved reduced pressure principle backflow prevention assembly at the service connection.~~

(3) *Auxiliary Water Supply.* In the case of any premises where there is an auxiliary water supply, whether or not directly connected with a municipal water distribution system, the municipal water distribution system shall be protected by an approved air-gap method or an approved reduced pressure principle backflow prevention assembly.

(B) Assemblies and methods shall be installed by the consumer, at the consumer's expense.

(1) Prior to installation of any assembly, customers must obtain an ~~I~~installation permit~~s for the installation of all assemblies or standard details required by the City shall be obtained from the Engineering~~ from the Development Services Department ~~prior to installation.~~. A separate permit shall be obtained for each assembly ~~or methods~~ to be installed, including replacement.

(2) It shall be the duty of the person doing the work authorized by the permit to notify the Engineering Department in writing that work is ready for inspection. Such notification shall be given not less than 24 hours before the work is to be inspected and shall be given only if there is reason to believe that the work done will meet current Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California University Standards, as referred to in the Manual of Cross-Connection Control.

(C) The City shall maintain a list of backflow prevention assemblies by type and manufacturer. The list shall be available to any customer required to install a backflow prevention assembly, together with instructions for proper installation. (Ord. 08-1101, passed 2-25-2008; Am. Ord. 14-1299, passed 8-18-2014. Formerly 14-13-5)

§ 14-11-5 Fees.

~~In order t~~To defray the City's costs in administering the Cross Connection Program, a monthly fee shall be charged to each customer connected into a public water system. ~~establishing, supervising and implementing the policies, inspections and the terms and conditions contained in this article, a monthly fee shall be charged to each customer connected into a public water system.~~ All fees pursuant to this section shall be established by resolution of Council. (Ord. 06-1012, passed 6-26-2006; Am. Ord. 14-1299, passed 8-18-2014. Formerly 14-13-6)

§ 14-11-6 Exceptions.

No bypassing of required assemblies or methods of backflow prevention shall be allowed under any circumstances excepting fire emergency. (Ord. 06-1012, passed 6-26-2006; Am. Ord. 14-1299, passed 8-18-2014. Formerly 14-13-7)

§ 14-11-7 Compliance with fire code.

The Goodyear Municipal Code, the City of Goodyear's Fire Code, Federal, State and local law may contain requirements that must be met in addition to the provisions of this chapter. (Ord. 06-1012, passed 6-26-2006; Am. Ord. 14-1299, passed 8-18-2014. Formerly 14-1-3)

The Goodyear Code of Ordinances is current through Ordinance 22-1565, passed December 12, 2022.

Disclaimer: The City Clerk's Office has the official version of the Goodyear Code of Ordinances. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: www.goodyearaz.gov
Code Publishing Company, A General Code Company

ITEM #: 6.
DATE: 09/25/2023
AI #:1640

CITY COUNCIL ACTION REPORT

SUBJECT: AUTHORIZATION OF EXPENDITURE OF CONSTRUCTION AND FURNITURE, FIXTURES, AND EQUIPMENT (FF&E) FUNDS FOR APPROVED CIP PROJECT #60105 – GOODYEAR MUNICIPAL COMPLEX TENANT IMPROVEMENTS

STAFF PRESENTER(S): Tony Mena, Deputy Public Works Director and Allan Smolko, Senior Project Manager

SUMMARY

A request to authorize an expenditure for construction and furniture, fixtures, & equipment (FF&E) funds up to $3,690,000 for Tenant and Site Improvements for Building D of Goodyear Municipal Complex (GMC) in Capital Improvement Program (CIP) Project #60105 – Goodyear Municipal Complex Tenant Improvements.

STRATEGIC PLAN ALIGNMENT

Fiscal Resource Management

RECOMMENDATION

Consider authorization for the expenditure of construction and furniture, fixtures, & equipment (FF&E) funds up to $3,690,000 for Tenant and Site Improvements for Building D of Goodyear Municipal Complex (GMC) for Capital Improvement Program (CIP) Project #60105 - Goodyear Municipal Complex Tenant Improvements. (Tony Mena, Deputy Public Works Director and Allan Smolko, Senior Project Manager)

FISCAL IMPACT

CIP Project #60105 is currently programmed and budgeted in the FY2024-FY2028 CIP with a total project budget of $7,033,600 for Design, Construction, furniture, fixtures, & equipment (FF&E), and Others, with an estimated completion date of September 2024.

BACKGROUND AND PREVIOUS ACTIONS

Per City of Goodyear Resolution 08-1255, all expenditures of budgeted funds in excess of $500,000 must obtain Council approval.

CIP Project #60105 – Goodyear Municipal Complex Tenant Improvements is described to renovate and improve interiors of Goodyear Municipal Complex (GMC) Buildings B, C, D, and E to provide space solutions for Courts, Engineering, IT, Fire, and the Wellness Clinic.

AI-1389 - In March 2023, City Council authorized the expenditure of construction and FF&E funds up to $650,000 for facility renovations of Building C of GMC for CIP Project #60105 Goodyear Municipal Complex Tenant Improvements. GMC Building C construction was completed in June 2023, where the Goodyear Wellness Center relocated and opened in July 2023.

STAFF ANALYSIS

This Council Action Request is to seek approval expenditures for the GMC Building D and site improvements. Additional council action will be required for Buildings B and E construction once design and preconstruction services for those two buildings are completed. All the suite tenant improvements include upgrades to the flooring, lighting, window treatments, restrooms, lounge/waiting area, conference rooms, office and open spaces, access control, fire life safety and FFE. In addition, information technology will be needed for security and card reader access for these renovated spaces.

ITEM #: 7.
DATE: 09/25/2023
AI #:1655

CITY COUNCIL ACTION REPORT

SUBJECT: WATER INFRASTRUCTURE AND FINANCE AUTHORITY (WIFA) GRANT APPLICATION TO DEPLOY SMART HOME WATER DEVICES FOR 500 WATER CUSTOMERS

STAFF PRESENTER(S): Andrew Pirrone, Water Conservation Coordinator

SUMMARY

Water Conservation and Resources staff continue to seek ways to improve end use water efficiency in our service area including smart home water devices for our residents at a discounted cost. Currently around 300 devices are installed as part of our existing program. Application for a water conservation grant from the Arizona Water Infrastructure and Finance Authority (WIFA) will allow for possible expansion of this existing program for an additional 500 devices for residents to facilitate greater water savings overall. The amount requested through the grant is $156,090.

STRATEGIC PLAN ALIGNMENT



RECOMMENDATION

ADOPT RESOLUTION NO. 2023-2350 AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR WATER INFRASTRUCTURE AND FINANCE AUTHORITY (WIFA) CONSERVATION FUNDS TO GOODYEAR WATER SERVICES, AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATING TO SAID APPLICATIONS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AGREEMENT (IF GRANT FUNDS ARE AWARDED), AND AUTHORIZING THE CITY MANAGER TO APPROVE THE REQUIRED BUDGET TRANSFER (IF GRANT FUNDS ARE AWARDED). (Andrew Pirrone, Water Conservation Coordinator)

FISCAL IMPACT

WIFA requires a 25% match to apply for program or project funding for conservation. Because Goodyear has an established program for smart home water devices, the match amount of $52,030 is already incorporated into the operational budget for water conservation devices and incentives. Therefore, there is not any additional funding requested over and above the existing Water Conservation budget at this time.

Requested Grant Amount from WIFA	$156,090
Goodyear Water Conservation 25% match	$52,030
Total Program Cost:	$208,120

BACKGROUND AND PREVIOUS ACTIONS

The City of Goodyear's Water Services Department is committed to improving water efficiency for end water users within the service area at the direction of Council and the Water Conservation Committee's specific recommendations. The city currently offers to its water customers a discounted smart home water and leak detection device. This device specifically has displayed water savings upwards of 14% on average for homes where it is installed. The grant would allow the city the opportunity to expand this program and offer a greater number of smart home water devices than what current funding provides.

STAFF ANALYSIS

This device is easily set up by the resident and staff assistance is available as needed. Because the program framework already exists, there will not be significant impacts to staff operations in growing this program. Conservation staff hopes to expand this program to reach an additional 500 water customers and applying for this grant will facilitate that goal.

Attachments

RESOLUTION 2023-2350

RESOLUTION NO. 2023-2350

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR WATER INFRASTRUCTURE AND FINANCE AUTHORITY (WIFA) CONSERVATION FUNDS TO GOODYEAR WATER SERVICES, AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATING TO SAID APPLICATIONS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AGREEMENT (IF GRANT FUNDS ARE AWARDED), AND AUTHORIZING THE CITY MANAGER TO APPROVE THE REQUIRED BUDGET TRANSFER (IF GRANT FUNDS ARE AWARDED).

WHEREAS, it is in the best interest of the City to apply for Water Infrastructure and Finance Authority conservation grant funds for assistance in single family home leak detection and smart home water use; and

WHEREAS, the projects qualify as eligible projects under the WIFA Water Conservation and Efficiency grant fund; and

WHEREAS, the resources for the match requirement in the amount of $52,030 have been identified and are available in the applicant department's conservation operating budget; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. The City Manager, or her designee, is hereby authorized to submit an application to the Water Infrastructure and Finance Authority for the Conservation and Efficiency grant funds for single family home leak detection and smart home water use for an amount not to exceed $156,090.

SECTION 2. If the grant application is awarded, the City will enter into a Grant Agreement with the WIFA to implement the projects or programs that have been approved by the WIFA.

SECTION 3. The City Manager is hereby authorized to execute all documents relating to these applications and any grant offer resulting from such applications.

SECTION 4. If grant funds are awarded to the City of Goodyear, the City Council hereby approves necessary budget transfers in the amount of the awarded funds.

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:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

ITEM #: 8.
DATE: 09/25/2023
AI #:1668

CITY COUNCIL ACTION REPORT

SUBJECT: RURAL AND TRIBAL ASSISTANCE PILOT PROGRAM GRANT AND RESOLUTION

STAFF PRESENTER(S): Chris Bridges, Deputy Director of Engineering-Transportation

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SUMMARY

This item is for formal Council adoption of a resolution approving the pursuit of the Rural and Tribal Assistance Pilot Program Grant funds in the amount of $150,000 for conducting a Project Assessment and Alternatives Feasibility Analysis for the Estrella Parkway/Cotton Lane Intersection.

STRATEGIC PLAN ALIGNMENT

Fiscal Resource Management

RECOMMENDATION

ADOPT RESOLUTION NO. 2023-2351 RATIFYING THE CONDITIONAL APPROVAL AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR FY 2023-2024 RURAL AND TRIBAL ASSISTANCE PILOT PROGRAM FUNDS TO THE UNITED STATES DEPARTMENT OF TRANSPORTATION (USDOT), AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATING TO SAID APPLICATION, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AGREEMENT (IF GRANT FUNDS ARE AWARDED), AND AUTHORIZING THE CITY MANAGER TO APPROVE THE REQUIRED BUDGET TRANSFER (IF GRANT FUNDS ARE AWARDED). (Chris Bridges, Deputy Director of Engineering)

FISCAL IMPACT

The grant is a reimbursement program with zero matching funds required.

BACKGROUND AND PREVIOUS ACTIONS

City staff became aware of a grant opportunity for technical assistance and did additional research during the recent Council break for the United States Department of Transportation (USDOT) Rural and Tribal Assistance Pilot Program. This grant opportunity is to help communities with technical assistance funding to conduct predevelopment phase activities, including but not limited to feasibility studies, project planning, preliminary engineering and design work, environmental review, etc.

During the application guidance meeting the USDOT staff highly recommended turning in the grant on the first day available, which was August 14th. Since there were no Council meetings occurring before submitting a grant, staff received the conditional mayoral approval to submit with the understanding that the full resolution would be brought before Council prior to receiving a potential award.

STAFF ANALYSIS

The 2014 Transportation Master Plan (TMP) recommended a grade separated intersection at the intersection of Estrella Parkway and Cotton Lane to replace the existing roundabout, which is approaching capacity. Secondarily, the 2023 Transportation Master Plan preliminary data has identified this intersection as a high priority. The combination of development growth and the fact that this intersection is currently the single primary access with only severely limited alternative routes in and out of the Estrella community have made this a priority for safety and traffic capacity. Geographic and fiscal constraints are also a significant concern for providing this much needed roadway improvement, which will not only increase capacity, but will also increase the safety of the traveling public through this busy intersection.

The project is currently planned to convert the existing roundabout to a traditional traffic signal with design in FY2026 and construction in FY2028. However, given the previous recommendation of the 2014 TMP for a grade separated intersection, the City needs to complete a project assessment and alternatives analysis to determine the ultimate configuration of the intersection that includes all alternatives, such as a complete reconfiguration of the two roadways, over or under pass, signal, etc. This project assessment will help the city of Goodyear to determine the best option for moving traffic through this portion of the City and to guide what the final design will be in order to maximize the efficiency and safety of the corridor.

Attachments

Resolution 2023-2351

RESOLUTION NO. 2023-2351

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, RATIFYING THE CONDITIONAL APPROVAL AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR FY 2023-2024 RURAL AND TRIBAL ASSISTANCE PILOT PROGRAM FUNDS TO THE UNITED STATES DEPARTMENT OF TRANSPORTATION (USDOT), AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATING TO SAID APPLICATION, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AGREEMENT (IF GRANT FUNDS ARE AWARDED), AND AUTHORIZING THE CITY MANAGER TO APPROVE THE REQUIRED BUDGET TRANSFER (IF GRANT FUNDS ARE AWARDED).

WHEREAS, on August 27, 2023, the Mayor granted conditional approval to submit an application for USDOT Rural and Tribal Assistance Pilot Program grant funds for assistance in conducting a Project Assessment and Alternatives Feasibility Analysis for the Estrella Parkway/Cotton Lane Intersection contingent upon approval by the Goodyear City Council by resolution; and

WHEREAS, there is no match requirement for this application; and

WHEREAS, the project qualifies as an eligible project under the USDOT Rural and Tribal Assistance Pilot Program; and

WHEREAS, the pursuit of this grant is to the benefit of the citizens of the City of Goodyear; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. Ratify the current application submission to the USDOT Rural and Tribal Assistance Pilot Program for a Project Assessment and Alternatives Feasibility Analysis for the Estrella Parkway/Cotton Lane Intersection for an amount not to exceed $150,000.

SECTION 2. If the grant application is awarded, the City will enter into a Grant Agreement with the USDOT to implement the projects or programs that have been approved by the USDOT.

SECTION 3. The City Manager is hereby authorized to execute all documents relating to this application and any grant agreement offered as a result of grant funding.

SECTION 4. If grant funds are awarded to the City of Goodyear, the City Council hereby authorizes the City Manager to approve the necessary budget transfers in the amount of the awarded funds.

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:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

ITEM #: 9.
DATE: 09/25/2023
AI #:1687

CITY COUNCIL ACTION REPORT

SUBJECT: DEVELOPMENT AGREEMENT FOR AIRPORT GATEWAY SOUTH

STAFF PRESENTER(S): Andy Granger, Deputy City Manager

SUMMARY

Development Agreement for Airport Gateway South providing terms for receipt of additional water supplies and delivery of additional wastewater discharges to the City's wastewater treatment facility from operations at 14170 W. Yuma Road, Goodyear, AZ.

STRATEGIC PLAN ALIGNMENT


Fiscal Resource Management


Economic Vitality

RECOMMENDATION

ADOPT RESOLUTION NO. 2023-2354 APPROVING THE FORM OF A DEVELOPMENT AGREEMENT FOR AIRPORT GATEWAY SOUTH, CONDITIONALLY AUTHORIZING ITS EXECUTION, PROVIDING DIRECTION AND AUTHORIZATION, PROVIDING FOR THE TERMINATION OF THE APPROVALS AND AUTHORIZATIONS PROVIDED IN THE RESOLUTION; AND PROVIDING AN EFFECTIVE DATE. (Andy Granger, Deputy City Manager)

FISCAL IMPACT

The proposed Development Agreement for Airport Gateway South (the "Agreement") provides the City with the recovery for costs associated with the City providing additional water to the Factor Property, in excess of the volumes initially represented, as being needed and the costs associated with the City accepting additional wastewater discharges at the City's 157th Avenue Wastewater Reclamation Facility (the "157th Ave WRF") in excess of the volumes initially represented as being delivered. It also provides for the recovery of un-metered water used by the business on the Factor Property.

BACKGROUND AND PREVIOUS ACTIONS

Airport Gateway South Property LLC, a Delaware limited liability company ("Owner"), owns approximately 30.27 acres of land currently consisting of two lots located at 14160 West Yuma Road, Goodyear AZ (the "South Property") and 14170 West Yuma Road, Goodyear, Arizona (the "Factor Property") (collectively the South Property and the Factor Property are referred to as the "Property"), upon which Owner constructed two shell industrial buildings. In support of the development of the two shell industrial buildings located on the Property, Owner submitted the Final Sewer Report for Airport Gateway South West Yuma Road East of 143rd Avenue Goodyear, Arizona dated April 2021 (the "2021 AGS Sewer Report") and the Final Water Basis of Design Report for Airport Gateway South West Yuma Road East of 143rd Avenue Goodyear, Arizona dated March 2021 (the "2021 AGS Water Report"). (Collectively the 2021 AGS Sewer Report and the 2021 AGS Water Report are referred to as the "2021 AGS Utility Reports"). According to the 2021 AGS Water Report, the average daily demand for the two buildings and the landscaping for the Property was 64,138 gallons per day; and according to the 2021 AGS Sewer Report, the average daily wastewater flow to be discharged to the City's 157th Avenue Water Reclamation Facility (the "157th Ave WRF") was 24,678 gallons per day, for both buildings located at the Property. Water infrastructure improvements and wastewater infrastructure improvements were constructed to handle the delivery of the volume of water reflected in the 2021 AGS Utility Reports.

On November 15, 2021, Owner and Factor 75 LLC, a Delaware limited liability company ("Tenant") entered into a Lease Agreement for the lease of the building located on approximately 17.52 acres, the "Factor Property", pursuant to which Tenant intended to operate a production and distribution facility (the "Business"). Pursuant to the terms of its lease, Tenant submitted an amended site plan and construction documents for the Tenant improvements required for the operation of the Business on the Factor Property. In support of its site plan amendment and construction documents for the Tenant improvements on the Factor Property, Tenant submitted letters to the City advising that the proposed development plans did not require any amendment to the 2021 AGS Utility Reports. The City issued Tenant a Temporary Certificate of Occupancy on August 1, 2023.

Since it began operations on the Factor Property, Tenant has been receiving more water, both metered and unmetered, than the volumes reflected in the 2021 AGS Water Report and has been discharging more flows of wastewater to the 157th Ave WRF than the volumes reflected in the 2021 AGS Sewer Report. Tenant now approximates that the full build-out average daily water demand for the Business on the Factor Property must increase from 30,537 gpd to 180,000 gpd (the "Additional Water"), and the wastewater flows that will be discharged to the 157th Ave WRF from the Factor Property must increase from 14,729 gpd to 150,500 gpd (the "Additional Wastewater Discharges").

STAFF ANALYSIS

PURPOSE OF THE AGREEMENT

The proposed Agreement sets forth the terms and conditions pursuant to which the City has agreed to provide additional water to the Factor Property and to accept additional wastewater discharges at the 157 th Ave WRF from the Property.

DEVELOPMENT AGREEMENT TERMS

The following is a summary of the substantive terms of the proposed Agreement:

Updated Utility Reports. Factor 75 LLC, a Delaware limited liability company (the "Tenant" is required to submit a new water report and a new sewer report (collectively the "Updated Utility Reports"). The Updated Utility Reports are to account for the water and sewer demands of the

Factor Property, the South Property, and the Surrounding Properties and are to identify all additional on-site and off-site infrastructure that will be required to accommodate these demands.

Discharge Permit. Tenant is required to obtain a wastewater discharge permit pursuant to the requirements of Article 12-A of the Goodyear City Code as it may be amended from time to time (the "Discharge Permit") and to construct all pretreatment facilities identified in the Discharge Permit.

Payments. Tenant will be making the following payments to the City:

- $4,468,634, which represents a contribution of $2,226,689 toward the cost of the water resources for the Additional Water Tenant requires for its operations and a contribution of $2,241,945 towards the cost of the water system that will produce the Additional Water. This payment will be made before the City issues Tenant a 4-inch water meter, which is required to deliver all of the additional water to the Factor Property.
- $5,430,840, which represents a contribution towards the cost of the wastewater system that will treat and dispose of the Additional Wastewater Discharges that Tenant will be discharging to the 157 th Ave WRF. This payment will be made before the City issues Tenant a 4-inch water meter, which is required to deliver all of the additional water to the Factor Property.
- $9,148, which represents an agreed-upon payment in full of the cost of the unmetered water Tenant used. This payment is to be made within 30 days of the effective date of the Agreement.
- Tenant will not be required to pay any wastewater development impact fee or water development impact fee that would otherwise be owed as a result of the City's commitment to deliver the Additional Water to the Factor Property or to accept the Additional Wastewater Discharges from the Factor Property to the 157th Ave WRF

Infrastructure Improvements. Tenant will be responsible for constructing, at Tenant's sole cost and expense, all on-site and off-site water and wastewater infrastructure improvements identified in the Updated Utility Reports as being needed for the City to deliver the Additional Water to the Factor Property, including peak water demands, and fire flow needs, and to accept the Additional Wastewater Flows.

Interim Water. Tenant shall be entitled to receive up to 85,000 gpd of potable water from the City from the Effective Date of the Agreement until November 1, 2023. Beginning on November 1, 2023, Tenant shall be entitled to receive up to 110,000 gpd of potable water from the City until such time as Tenant has installed a 4-inch water meter

Issuance of 4-inch Water Meter. The City shall not issue Tenant a 4-inch water meter to allow the delivery of the Additional Water to the Factor Property until: (i) the City has received all of the payments as set forth above, (ii) there is capacity at the 157th Ave WRF to accept the Additional Wastewater Discharges, (iii) Tenant has obtained a Discharge Permit; and (iv) all pretreatment facilities identified in the Discharge Permit as being needed to comply with the requirements of Article 12-A of the Goodyear City Code have been completed.

Entitlement to Additional Water and Additional Wastewater Discharges. Tenant shall be entitled to receive the Additional Water from the City and to deliver the Additional Wastewater Discharges to the 157th Ave WRF after all of the following have occurred: (i) the City has received all of the payments set forth above; (ii) Tenant has submitted and received approval of the Updated Utility Reports, (iii) Tenant has obtained a Discharge Permit and all

pretreatment facilities identified in the Discharge Permit have been completed; (iv) Tenant has installed a 4-inch water meter, and (v) there is capacity at the 157 th Ave WRF to accept the Additional Wastewater Discharges.

Temporary Certificate of Occupancy. Until the City issues Tenant a permanent certificate of occupancy the City shall allow Tenant to operate under a temporary certificate of occupancy, unless either (i) Tenant has not obtained a permanent certificate of occupancy for the Factor Property by December 31, 2024; provided, however, that this deadline may be extended by the City Engineer, or his designee or (ii) the temporary certificate of occupancy issued for the Factor Property has been revoked pursuant to the terms of this Agreement.

Certificate of Occupancy. The City shall not issue Tenant a permanent certificate of occupancy for the Factor Property until all of the following have been satisfied: (i) the Updated Utility Reports have been submitted and approved by the City, (ii) Tenant has completed the construction of all on-site and off-site water and wastewater infrastructure improvements identified in the Updated Utility Reports as being needed for the City to deliver the Additional Water to the Factor Property and to accept the Additional Wastewater Discharges; (iii) Tenant has installed a 4-inch water meter subject to the terms of Section 11 above, and (iv) Tenant has obtained a Discharge Permit and all pretreatment facilities identified in the Discharge Permit as being needed to comply with the requirements of Article 12-A of the Goodyear City Code as it may be amended from time to time have been completed.

Enforcement. The Agreement includes deadlines for the satisfaction of the various requirements in the Agreement. Normally, the City would withhold building permits and/or certificates of occupancy (permanent and/or temporary) as a means of ensuring compliance with the development requirements. However, because Tenant is already operating and because there are no other means of enforcing compliance, the agreement allows for the City to revoke Tenant's temporary certificate of occupancy if Tenant fails to comply with the deadlines in the agreement. In recognition of all of the myriad of circumstances that could cause delays in Tenant's ability to satisfy its obligations within the stated timeframes, the agreement allows City staff to extend the deadlines upon a showing of good cause and provide opportunities for the Tenant to cure any breach prior to the revocation of Tenant's temporary certificate of occupancy.

At Risk Construction. In anticipation of the requirements for the City's issuance of a 4-inch water meter being satisfied, the agreement allows for Tenant to begin construction of improvements for the 4-inch water meter, at risk, no sooner than November 1, 2023 and subject to Tenant's having submitted and obtained approval of all construction documents required by the City.

Limitation on Water Deliveries. The Agreement limits the City's obligations to deliver additional water over and above the Additional Water the City will be providing under the terms of the Agreement unless an updated water report is submitted and approved by the City Engineer and all conditions required by the City for providing additional water have been satisfied.

Limitation on Wastewater Discharges. The Agreement limits the City's obligations to accept additional wastewater over and above the Additional Wastewater Discharges the City will be accepting under the terms of the Agreement unless an updated water report is submitted and approved by the City Engineer and all conditions required by the City to accept additional wastewater discharges have been satisfied.

No Owner Obligations. Because all of the requirements in the Agreement are the result of the Tenant's operations, the City has agreed that the obligations in the Agreement are obligations of Tenant, and not of Owner, and the City will not be required to satisfy any of the obligations in the Agreement.

TERMS OF RESOLUTION

This Agreement is contingent upon the Agreement being finalized and executed by the Tenant, Owner, and Owner's lender by October 16, 2023. Accordingly, the resolution is only seeking the approval of the form of the attached Development Agreement for Airport Gateway South and it provides the City Attorney or his designee with authority to make non-substantive changes to the Agreement before it is finalized. It also sets forth conditions that must be satisfied before the City Manager can execute the Agreement. If the Agreement is not fully executed by October 16, 2023, the authorization to execute the Agreement terminates.

RECOMMENDATION

Staff is recommending the adoption of Resolution 2023-2354 and the approval of the Development Agreement for Airport Gateway South, as it furthers Council's requirement that growth pays for growth and allows for the continued operation of Factor 75's business without interruption, while the issues related to the City's delivery of additional water to the Factor Property and the City's receipt of additional wastewater supplies at the 157th Ave WRF are being resolved.

Attachments

Resolution w-Ex. A Development Agreement

RESOLUTION NO. 2023-2354

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, APPROVING THE FORM OF A DEVELOPMENT AGREEMENT FOR AIRPORT GATEWAY SOUTH, CONDITIONALLY AUTHORIZING ITS EXECUTION, PROVIDING DIRECTION AND AUTHORIZATION, PROVIDING FOR THE TERMINATION OF THE APPROVALS AND AUTHORIZATIONS PROVIDED IN THE RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Airport Gateway South Property LLC, a Delaware limited liability company ("Owner"), owns approximately 30.27 acres of land currently consisting of two lots located at 14160 and 14170 West Yuma Road, Goodyear, Arizona (collectively the "Property") upon which Owner constructed two shell industrial buildings; and

WHEREAS, in support of the development of the two shell industrial buildings located on the Property, Owner submitted the Final Sewer Report for Airport Gateway South West Yuma Road East of 143rd Avenue Goodyear, Arizona dated April 2021 (the "2021 AGS Sewer Report") and the Final Water Basis of Design Report for Airport Gateway South West Yuma Road East of 143rd Avenue Goodyear, Arizona dated March 2021 (the "2021 AGS Water Report"); and

WHEREAS, according to the 2021 AGS Water Report, the average day demand for the two buildings and the landscaping for the Property was 64,138 gallons per day; and

WHEREAS, according to the 2021 AGS Sewer Report, the average daily wastewater flow to be discharged to the City's 157th Avenue Water Reclamation Facility (the "157th Ave WRF") was 24,678 gallons per day for both buildings located at the Property; and

WHEREAS, water infrastructure improvements and wastewater infrastructure improvements were constructed to handle the delivery of the volume of water reflected in the 2021 AGS Water Report and the 2021 AGS Sewer Report respectively; and

WHEREAS, on November 15, 2021, Owner and Factor 75, LLC, a Delaware limited liability company ("Tenant") entered into a Lease Agreement for the lease of the building located on approximately 17.52 acres (the "Factor Property") pursuant to which Tenant intended to operate a production and distribution facility (the "Business"); and

WHEREAS, pursuant to the terms of its lease, Tenant submitted an amended site plan and construction documents for the Tenant improvements required for the operation of the Business on the Factor Property; and

WHEREAS, in support of its site plan amendment and construction documents for the Tenant improvements on the Factor Property, Tenant submitted letters to the City advising that the proposed development plans did not require any amendment to the 2021 AGS Sewer Report or the 2021 AGS Water Report; and

WHEREAS, the City issued Tenant a Temporary Certificate of Occupancy on August 1, 2023; and

WHEREAS, the water demand of the Business far exceeds the volumes reflected in the 2021 AGS Water Report and flows of wastewater being discharged to the 157th Ave WRF exceed the volumes reflected in the 2021 AGS Sewer Report; and

WHEREAS, Tenant approximates that the full build-out average daily water demand for the Business on the Factor Property must increase from 30,537 gpd to 180,000 gpd, and the wastewater flows that will be discharged to the 157th Ave WRF from the Factor Property must increase from 14,729 gpd to 150,500 gpd; and

WHEREAS, the proposed Development Agreement sets forth the terms and conditions pursuant to which the City has agreed to provide additional water to the Factor Property and to accept additional wastewater discharges at the 157th Ave WRF from the Property; and

WHEREAS, upon its execution, Owner, the City, and Tenant intend for the Development Agreement for Airport Gateway South to be a Development Agreement within the meaning of A.R.S. § 9-500.05 that binds the Owner and Tenant of the Factor Property and all future owners of all or any portion of the Factor Property.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. The Mayor and Council of the City of Goodyear find the terms set forth in the Development Agreement for Airport Gateway South, a copy of which is attached hereto as Exhibit 1 and incorporated herein by this reference, to be in the best interest of the City of Goodyear, and hereby approve the form of the Development Agreement for Airport Gateway South.

SECTION 2. The City Attorney or his designee is hereby authorized to make non-substantive changes to the form of the Development Agreement for Airport Gateway South attached hereto as Exhibit 1 prior to its execution.

SECTION 3. The City Manager is hereby authorized to execute the Development Agreement for Airport Gateway South as it may be modified by the City Attorney or his designee upon the satisfaction of all of the following by no later than December 11, 2023:

- The finalization of the Development Agreement for Airport Gateway South to include the non-substantive changes made by the City Attorney or his designee; and
- Receipt of documentation demonstrating that the person executing the Development Agreement for Airport Gateway South for the Owner and Tenant are authorized to do so; and
- Receipt of an original Development Agreement for Airport Gateway South as it may be modified by the City Attorney or his designee executed by Owner and Tenant.

SECTION 4. The City Manager or her designee is hereby authorized and directed to take any and all actions and to execute all the documents necessary to carry out the intent of this Resolution and the terms of the Development Agreement for Airport Gateway South as it may be modified by the City Attorney or his designee.

SECTION 5. The approvals and authority granted in this Resolution 2023-2354 shall terminate if the Development Agreement for Airport Gateway South as it may be modified by the City Attorney or his designee is not fully executed and Recorded by October 16, 2023.

SECTION 6. Following the execution of the Development Agreement for Airport Gateway South by the City, the Owner of the Factor Property, and the Tenant, the City Clerk shall record the Agreement with the Maricopa County Recorder's Office.

SECTION 7. This Resolution 2023-2354 shall be effective as provided by law.

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:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

EXHIBIT 1

AIRPORT GATEWAY SOUTH DEVELOPMENT AGREEMENT

(On the following pages)

When recorded return to:

City Clerk's Office
City of Goodyear
1900 N. Civic Square
Goodyear, AZ 85395

With a copy to:

Gammage & Burnham, PLC
Attn: Ashley Z. Marsh, Esq.
40 N. Central, 20th Floor
Phoenix, AZ 85020

Berry Riddell LLC
Attn: Wendy Riddell, Esq.
6750 E Camelback Rd., #100
Scottsdale, AZ 85251

DEVELOPMENT AGREEMENT FOR AIRPORT GATEWAY SOUTH

This Development Agreement for Airport Gateway South is entered into by and among the City of Goodyear, an Arizona municipal corporation ("City"), Airport Gateway South Property, LLC, a Delaware limited liability company ("Owner"), and Factor 75, LLC, a Delaware limited liability company ("Tenant"). City, Owner, and Tenant may each be referred to as "Party" or "Parties" as the context may require.

RECITALS

A. The Parties are authorized pursuant to A.R.S. 9-500.05 and the related provisions of the City code and ordinances to enter into this Agreement. The Parties intend for this Agreement to be recorded only against the Factor Property and not the South Property as defined herein.

B. Owner owns approximately 30.27 acres of land commonly referred to as Airport Gateway South, currently consisting of two lots located at 14160 and 14170 West Yuma Road, Goodyear, Arizona 85338, upon which Owner constructed two industrial buildings.

C. One of the buildings is located on approximately 17.52 acres, which is legally described on **Exhibit A** attached hereto and incorporated herein by this reference (the "Factor Property").

D. The other building is located on approximately 12.75 acres, adjacent and to the south of the Factor Property (the "South Property"). The Factor Property and the South

Property are collectively referred herein to as the "Property."

E. In support of the development of the two industrial buildings located on the Property, Owner submitted the Final Sewer Report for Airport Gateway South West Yuma Road East of 143rd Avenue Goodyear, Arizona dated April 2021 (the "2021 AGS Sewer Report") and the Final Water Basis of Design Report for Airport Gateway South West Yuma Road East of 143rd Avenue Goodyear, Arizona dated March 2021 (the "2021 AGS Water Report").

F. According to the 2021 AGS Water Report, the average daily demand for the two buildings and the landscaping was 64,138 gallons per day, which was the anticipated demand for both buildings and for the landscaping for the Property.

G. According to the 2021 AGS Sewer Report, the average daily wastewater flow to be discharged to the City's 157th Avenue Water Reclamation Facility (the "157th Ave WRF") was 24,678 gallons per day for both buildings located at the Property.

H. Water infrastructure improvements were constructed to handle the delivery of the volume of water reflected in the 2021 AGS Water Report.

I. Wastewater infrastructure improvements were constructed to handle the delivery of the volume of wastewater that would be discharged to the 157th Ave WRF as reflected in the 2021 AGS Sewer Report.

J. On November 15, 2021, Owner and Tenant entered into a Lease Agreement for the lease of the Factor Property (the "Lease") pursuant to which Tenant intended to operate a production and distribution facility on the Factor Property ("Business").

K. Under the terms of the Lease, Tenant is responsible for processing and obtaining approvals of an amendment to the existing site plan for the Factor Property required as a result of the operations of the Business; designing, obtaining permits for and constructing modifications to the Factor Property needed to conform to such amended site plan; designing, obtaining permits for and constructing additional public infrastructure required as a result of the operations of the Business; and designing, obtaining permits for, and constructing all tenant improvements required for the operation of the Business.

L. Tenant submitted an amended site plan and construction documents for the tenant improvements required for the operation of the Business on the Factor Property.

M. In support of its site plan amendment and construction documents for the tenant improvements on the Factor Property, Tenant submitted letters to the City advising that the proposed development plans did not require any amendment to the 2021 AGS Sewer Report or the 2021 AGS Water Report.

N. The City issued Tenant a Temporary Certificate of Occupancy on August 1, 2023.

O. Tenant utilized water from a fire hydrant from August 18, 2023 to August 21, 2023 to deliver water to the Business. This use has since been suspended.

P. The water demand of the Business exceeds the volumes reflected in the 2021 AGS Water Report and flows of wastewater being discharged to the 157th Ave WRF exceed the volumes reflected in the 2021 AGS Sewer Report.

Q. The 2021 AGS Water Report and the 2021 AGS Sewer Report approximate the full build-out:

i. water demand for the Property landscaping is 11,390 gallons per day ("gpd");

ii. water demand for the South Property is 22,210.50 gpd;

iii. wastewater flows from the South Property to the 157th Ave WRF are 10,391 gpd;

iv. water demand for the Factor Property is 30,537 gpd; and

v. wastewater flows from the Factor Property to the 157th Ave WRF are 14,729 gpd.

R. Tenant approximates that the full build-out average daily water demand for the Business and building on the Factor Property must increase from 30,537 gpd to 180,000 gpd, and the wastewater flows that will be discharged to the 157th Ave WRF from the building on the Factor Property must increase from 14,729 gpd to 150,500 gpd.

S. To meet that full build-out daily water demand, Tenant is now seeking to install a larger 4-inch water meter for the Factor Property, and to increase the water and wastewater service allocations for the building on the Factor Property.

T. The City has asked Tenant to provide updated information on the increase in the volume of water required for the operation of the Business and the increase in the volume of wastewater flows that will be delivered to the 157th Ave WRF from the Business.

U. According to the City, the volume of water required and the volume of wastewater flows that will be discharged to the 157th Ave WRF for the operation of the Business exceed the volumes allocated to light industrial development in the City's Integrated Water Master Plan.

V. According to the City, the existing water and sewer infrastructure, including, by way of example, but not limitation, water delivery lines, wastewater trunk lines, and lift stations, have been sized to accommodate deliveries of water and discharges of wastewater based on the allocations in the City's Integrated Water Master Plan.

W. Tenant has not yet provided information that reflects the impact the increase in the volume of water required to support Tenant's operations has on the City's Water System or the impact the increase in wastewater flows to the 157th Ave WRF as on the City's Wastewater System.

X. This Agreement sets forth the terms and conditions pursuant to which the City has agreed to provide the Additional Water to the Factor Property and to accept the Factor Property's

Additional Wastewater Discharge.

Y. WHEREAS, the Parties intend this document to be a Development Agreement within the meaning of A.R.S. § 9-500.05.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements set forth herein, the Parties hereto state, confirm and agree as follows:

AGREEMENT

1. Incorporation of Recitals. The Parties acknowledge the accuracy of the foregoing Recitals, which are hereby incorporated into this Agreement as though fully restated herein.

2. Effective Date. The execution of this Agreement by the Parties and the approval of this Agreement by Resolution of the Goodyear City Council are conditions precedent to this Agreement becoming effective. This Agreement shall take effect upon the later of (i) the full execution of this Agreement by the Parties, and (ii) the date the Resolution approving this Agreement becomes effective, such later dated hereafter defined as the "Effective Date."

3. Definitions: Capitalized terms not defined in the foregoing Recitals are defined as follows:

3.1. "Additional Water" means 149,463 gpd which represents the difference between the average daily demand of 30,537 gpd reflected in the 2021 AGS Water Report for the Factor Property and the average daily demand of 180,000 gpd identified by Tenant as the full build-out water demand for the Factor Property.

3.2. "Additional Wastewater Discharges" means 135,771 gpd which represents the difference between the average daily discharges of 14,729 gpd reflected in the 2021 AGS Sewer Report for the Factor Property and the average daily discharges of 150,500 gpd approximated as the full build-out wastewater discharge demand for the Factor Property.

3.3. "Agreement" means this Development Agreement for the Factor Property entered into by and among the City of Goodyear, an Arizona municipal corporation, Airport Gateway South Property, LLC, a Delaware limited liability company, and Factor 75, LLC, a Delaware limited liability company.

3.4. "City" means the City of Goodyear, an Arizona municipal corporation.

3.5. "City Engineer" means the City of Goodyear Director of Engineering or his or her designee.

3.6. "Development Application" means an application for the approval of

any development related activities within all or part of the Factor Property, including applications for zoning, use permits, preliminary plats, final plats, site plans, construction plans, and construction, including building, permits.

3.7. "Development Regulations" means all applicable laws, codes, ordinances, rules, regulations, standards, guidelines, conditions of approval, and the like governing the development of property within the City as they may be amended from time to time. This includes, by way of example but not limitation: the Building Codes and Regulations (currently Chapter 9 of the Goodyear City Code), the Subdivision Regulations adopted by the City of Goodyear (currently Chapter 15 of the Goodyear City Code), the City's Zoning Ordinance, the City of Goodyear's Design Guidelines Standards, the City of Goodyear Engineering Design Standards and Policies Manual as they all may be adopted and amended from time to time; master plans and studies, such as the City of Goodyear Integrated Water Master Plan, and the Goodyear Transportation Master Plan, ordinances rezoning the Property, including stipulations and conditions of approval thereto; stipulations; and conditions of approvals of approved site plans, preliminary plats, and final plats for the Property.

3.8. "EDS&PM" means the City of Goodyear Engineering Design Standards and Policies Manual in effect at the time of construction.

3.9. "Existing Capacity" means there is sufficient capacity at the 157th Ave WRF to accommodate the Additional Wastewater Discharges, as determined by the City of Goodyear Water Services Director or her designee.

3.10. "Owner" means Airport Gateway South Property, LLC, a Delaware limited liability company and its Successors and Assigns.

3.11. "Parties" means Owner, City and Tenant collectively.

3.12. "Party" means Owner, City, or Tenant individually depending upon the context.

3.13. "Successors and Assigns" means any person or entity that succeeds to or is assigned any interest in all or part of the Factor Property except for the portion of the Factor Property owned now or acquired in the future by the City of Goodyear.

3.14. "Surrounding Properties" mean those properties, developed and undeveloped, that based on the City's Integrated Water Master Plan, will use any of the water infrastructure improvements that are being used to deliver water to the Property and that are using wastewater infrastructure improvements that are being used to deliver wastewater discharges from the Property to the 157th Ave WRF.

3.15. "Tenant" means Factor75, LLC, a Delaware limited liability company and its Successors and Assigns.

3.16. "Water Resources" means renewable supplies of water that satisfy the

requirements of the Arizona Department Resources to increase the City's water portfolio in its Designation of Assured Water Supply.

3.17. "Water Services Director" means the City of Goodyear Water Services Director or his or her designee.

3.18. "Wastewater System" means the infrastructure needed for the City to treat and dispose of wastewater discharges from the City's 157th Ave WRF and includes, by way of example, but not limitation, the treatment plant, recharge facilities, delivery lines and brine disposal facilities.

3.19. "Water System" means the infrastructure improvements needed for the City to develop potable water and includes, by way of example, but not limitation, wells, improvements needed to deliver surface water supply to the City and infrastructure improvement needed to treat raw water to a potable standard.

4. **Updated Utility Reports**. Tenant shall submit, and obtain the City Engineer's approval of, a new water report and a new sewer report (together, the "Updated Utility Reports"). The water report shall include modeling to account for: the average full build-out daily water demands of the Factor Property of 180,000 gpd; the average daily water demands of the South Property of 22,210.50 gpd; the average daily water demands of landscaping on the Property of 11,390 gpd of water; and the average daily water demands of the Surrounding Properties, using the City's Integrated Water Master Plan for the various zoned property uses and the EDS&PM. The sewer report shall include modeling to account for: the average full build-out daily sewer demands of the Factor Property of 150,500 gpd for wastewater discharges from the Factor Property; the average daily sewer demands of the South Property of 10,391 gpd for wastewater discharges from the South Property; and the average daily sewer demands of the Surrounding Properties, using the City's Integrated Water Master Plan for the various zoned property uses and the EDS&PM. The modeling shall include all infrastructure that will be used to deliver water to the Property and all infrastructure that will be used to deliver wastewater discharges from the Property to the 157th Ave WRF. The new water report shall comply with the requirements of the EDS&PM and shall identify all additional on-site and off-site infrastructure that will be required to accommodate the average daily delivery of water to the Property (180,000 gpd for water for the Factor Property, 22,210.50 gpd of water for the South Property and 11,390 gpd of water for landscaping on the Property), the peak water demands, and fire flow needs while accounting for the demands of the Surrounding Properties. The new sewer report shall comply with the requirements of the EDS&PM and shall identify all additional on-site and off-site infrastructure required to accommodate the average daily wastewater discharges to the 157th Ave WRF from the Property (150,500 gpd for wastewater discharges from the Factor Property and 10,391 gpd of discharges from the South Property) while accounting for the demands of the Surrounding Properties.

4.1. Tenant shall submit the Updated Utility Reports to the City no later than sixty (60) days following the Effective Date and shall obtain final approval of the Updated Utility Reports by the City within sixty (60) days following the date the Updated Utility Reports are received by the City unless the deadlines set forth herein have been

extended by the City Engineer or his designee in a written document, which deadlines shall be extended upon a showing of good cause for the delays as determined by the City Engineer or his designee. If Tenant fails to submit or obtain approval of the Updated Utility Reports within the time frames set forth herein due to Tenant delay, the City shall be entitled to revoke the Temporary Certificate of Occupancy Tenant has been operating under pursuant to the terms of Section 15 below.

5. **Discharge Permit**. Tenant shall obtain a wastewater discharge permit pursuant to the requirements of Article 12-A of the Goodyear City Code as it may be amended from time to time (the "Discharge Permit"). No later than ten (10) days following the Effective Date, Tenant shall submit to the City an application for a Discharge Permit.

5.1. Tenant shall, at Tenant's sole cost and expense, install all pretreatment facilities identified in the Discharge Permit as being needed to comply with the requirements of Article 12-A of the Goodyear City Code as it may be amended from time to time by December 31, 2023 unless the deadlines set forth herein have been extended by the City of Goodyear Water Services Director or her designee in a written document, which deadlines shall be extended upon a showing of good cause for the delays as determined by the City of Goodyear Water Services Director or her designee.

5.2. If Tenant fails to submit an application for a Discharge Permit within ten (10) days following the Effective Date or fails to obtain a Discharge Permit, and/or fails to complete the installation of all pretreatment facilities identified in the Discharge Permit by December 31, 2023, the City shall be entitled to revoke the Temporary Certificate of Occupancy Tenant has been operating under pursuant to the terms of Section 15 below until such time as the Discharge Permit is obtained and/or the installation of all such pretreatment facilities are completed.

6. **Payment for Additional Water Supply**. Tenant shall remit a payment to the City in the amount of $4,468,633.79, which represents a contribution of $2,226,688.79 toward the cost of the Water Resources for the Additional Water that will be treated to potable standards and delivered to the Factor Property and a contribution of $2,241,945.00 towards the cost of the Water System that will produce the Additional Water that will be delivered to the Factor Property. The payment required herein shall be made prior to the City's issuance of a 4-inch water meter and prior to the City's delivery of Additional Water and acceptance of Additional Wastewater Discharges as set forth in Section 13 below.

6.1. Tenant shall remit the payment as set forth in Section 6 above within thirty (30) days after receiving written notice from the City that it has Existing Capacity and has presented reasonable evidence of said capacity. Written notice shall be provided consistent with Section 24 and via email to us-legal@hellofresh.com.

7. **Payment for Additional Wastewater Discharges**. Tenant shall remit a payment to the City in the amount of $5,430,840.00, which represents a contribution towards the cost of Wastewater System that will treat and dispose of the Additional Wastewater Discharges that will be discharged to the 157th Ave WRF. The payment required herein

shall be made prior to the City's issuance of a 4-inch water meter and prior to the City's delivery of Additional Water and acceptance of Additional Wastewater Discharges as set forth in Section 13 below.

7.1. Tenant shall remit the payment as set forth in Section 7 above within thirty (30) days after receiving written notice from the City that it has Existing Capacity and has presented reasonable evidence of said capacity. Written notice shall be provided consistent with Section 24 and via email to us-legal@hellofresh.com.

8. Payment for Unmetered Water Usage. Tenant shall remit a payment to the City in the amount of $9,148.00, which represents an agreed upon payment in full of the cost of the water that Tenant utilized from a fire hydrant to deliver water to the Business and the cost of treating the discharges of this water at the 157th Ave WRF (the "Unmetered Water Usage").

8.1. Tenant shall remit the payment as set forth in Section 8 above within thirty (30) days of the Effective Date of this Agreement.

9. Infrastructure Improvements.

9.1. Construction of Infrastructure Improvements. Tenant shall:

9.1.1. Construct all on-site and off-site water infrastructure improvements required for the City to deliver the Additional Water to the Factor Property, including peak water demands, and fire flow needs, as identified in the new water report Tenant is to provide pursuant to Section 4 above. For avoidance of doubt, Owner consents to Tenant performing the construction and work provided in this Section 9; provided Tenant complies with the terms and conditions of the Lease related to construction of improvements on the Factor Property.

9.1.2. Construct all on-site and off-site wastewater infrastructure improvements required for the delivery of the Additional Wastewater Discharges to the 157th Ave WRF from the Factor Property as identified in the new sewer report Tenant is to provide pursuant to Section 4 above; and

9.1.3. Commence the construction of the improvements required in Sections 9.1.1 and 9.1.2 above within six (6) months following the date the Updated Utility Reports are approved by the City Engineer unless the deadline for commencing construction required herein has been extended by the City Engineer in a written document, which deadlines shall be extended upon a showing of good cause for the delays as determined by the City Engineer or his designee. If Tenant has not commenced

construction of the improvements required to be constructed in Sections 9.1.1 and 9.1.2 within the timeframes set forth herein or if Tenant fails to timely complete them, the City shall be entitled to revoke the Temporary Certificate of Occupancy Tenant has been operating under pursuant to the terms of Section 15 below until Tenant completes such improvements.

10. **Development Impact Fees**. The City shall not charge Owner or Tenant any wastewater development impact fee or water development impact fee that would otherwise be owed as a result of the City's commitment to deliver the Additional Water to the Factor Property or to accept the Additional Wastewater Discharges from the Factor Property to the 157th Ave WRF, including any impact fees that would normally be charged in connection with the issuance of additional water meters, including the 4-inch water meter referenced in Section 11 below.

11. **Issuance of 4-inch Water Meter**. The City shall not issue Tenant a 4-inch water meter to allow the delivery of the Additional Water to the Factor Property until: (i) the City has received the payment for the Unmetered Water Usage, for the Additional Water, and for the Additional Wastewater Discharges as set forth in Sections 6, 7, and 8 above; (ii) there is Existing Capacity at the 157th Ave WRF; (iii) Tenant has obtained a Discharge Permit; and (iv) all pretreatment facilities identified in the Discharge Permit Tenant is required to obtain pursuant to Section 5 have been completed.

11.1. Upon satisfaction of the foregoing conditions in Section 11 above, the City shall issue approval to construct a 4-inch water for the Factor Property.

11.2. No earlier than November 1, 2023, and subject to Tenant's having submitted and obtained approval of all construction documents required by the City for the construction of a 4-inch water meter, Tenant may elect to begin construction of the 4-inch water meter at risk. The parties understand that this at-risk construction will in no way alter the water and sewer service entitlement adjustments further outlined in Sections 12 and 13 below or the requirements for the issuance of the 4-inch water meter as outline in Section 11 above.

12. **City's Commitment to Deliver Interim Water**. Tenant shall be entitled to receive up to 85,000 gpd of potable water from the City from the Effective Date until November 1, 2023. Beginning on November 1, 2023, Tenant shall be entitled to receive up to 110,000 gpd of potable water from the City until such time as Tenant has installed a 4-inch water meter subject to the terms set forth in Section 11 above.

13. **Entitlement to Additional Water and Additional Wastewater Discharges**. Tenant shall be entitled to receive the Additional Water from the City and to deliver the Additional Wastewater Discharges to the 157th Ave WRF, increasing its average daily potable water and sewer service allocations to up to 180,000 gpd and 150,500 gpd, respectively, after all of the following have occurred:

13.1. The City has received the payment for the Unmetered Water Usage,

for the Additional Water, and for the Additional Wastewater Discharges as set forth in Sections 6, 7, and 8 above;

13.2. Tenant has submitted and received approval of the Updated Utility Reports as set forth in Section 4 above;

13.3. Tenant has obtained a Discharge Permit and all pretreatment facilities identified in the Discharge Permit have been completed, unless the Water Services Director has modified the timing for completing the required pretreatment facilities as set forth in Section 5 above;

13.4. Tenant has installed a 4-inch water meter subject to the terms set forth in Section 11 above; and

13.5. There is Existing Capacity available at the city's 157th Ave WRF.

14. Certificate of Occupancy. The City shall not issue Tenant a permanent certificate of occupancy for the Factor Property until all of the following have been satisfied:

14.1. the Updated Utility Reports have been submitted and approved by the City Engineer in accordance with the provisions of Section 4 above;

14.2. Tenant has completed the construction of all infrastructure improvements Tenant is required to construct pursuant to Sections 9.1.1 and 9.1.2 above;

14.3. Tenant has installed a 4-inch water meter subject to the terms of Section 11 above; and

14.4. Tenant has obtained a Discharge Permit and all pretreatment facilities identified in the Discharge Permit as being needed to comply with the requirements of Article 12-A of the Goodyear City Code as it may be amended from time to time have been completed.

Upon the satisfaction of the foregoing conditions, the City shall issue Tenant a permanent certificate of occupancy for the Factor Property.

15. Temporary Certificate of Occupancy. Until the City issues Tenant a permanent certificate of occupancy for the Factor Property pursuant to Section 14 above:

15.1 The City shall allow Tenant to operate under a temporary certificate of occupancy**,** unless:

15.1.1 Tenant has not obtained a permanent certificate of occupancy for the Factor Property by December 31, 2024; provided, however, that this deadline may be extended by the City Engineer, or his designee, in a written document, which deadline shall be extended upon a showing of good cause for

the delay in completing the requirements for the issuance of a permanent certificate of occupancy, as set forth in Section 14 and all subsections therein, as determined by the City Engineer or his designee.

15.1.2 The temporary certificate of occupancy issued for the Factor Property has been revoked pursuant to the terms of this Agreement.

15.2 If the City determines that Tenant is in breach of its obligations set forth in Sections 4 through 9 above, then the City shall send a written notice of the breach to Tenant and Owner. The City shall not revoke Tenant's temporary certificate of occupancy earlier than thirty (30) days following delivery of such written notice and provided the City may not revoke Tenant's temporary certificate of occupancy if Tenant has then cured any breach claimed by the City to have occurred.

16 Limitation of Water Deliveries. The City's obligation to deliver water to the Factor Property is limited as follows:

16.1 Owner and Tenant agree that the City shall not be required to deliver water to the building constructed on the Factor Property in excess of the average daily demand of 180,000 gpd unless an updated water report is submitted and approved by the City Engineer and all conditions required by the City for providing additional water have been satisfied.

16.2 The conditions required by the City for providing additional water in excess of an average daily demand 180,000 gpd shall be memorialized in an amendment to the Agreement executed by the Parties and approved by the Goodyear City Council and may include payments toward the cost of the additional Water Resources that will be treated to a potable standards and delivered to the Factor Property in excess of an average daily demand 180,000 gpd, a contribution towards the cost of the Water System that will produce the potable water that will be delivered to the Factor Property in excess of an average daily demand of 180,000 gpd, and the construction of additional infrastructure (on-site and off-site) identified in the updated water report as being needed for the City to deliver more than an average daily demand of 180,000 gpd, including peak water demands, and fire flow needs, to the Factor Property.

17 Limitation of Wastewater Discharges. The City's obligation to accept deliveries of wastewater discharges from the Factor Property at the 157th Ave WRF is limited as follows:

17.1 Owner and Tenant agree that the City shall not be required to accept additional wastewater discharges from the building constructed on the Factor Property in excess of average daily discharges of 150,500 gpd unless an updated sewer report is submitted and approved by the City Engineer and all conditions required by the City for accepting additional wastewater discharges have been satisfied.

17.2 The conditions required by the City for accepting additional wastewater discharges in excess of average daily discharges of 150,500 gpd shall be memorialized in an amendment to this Agreement executed by the Parties and approved by the Goodyear City Council and may include a contribution towards the cost of Wastewater System that will treat and dispose of the additional wastewater flows that will be discharged to the 157th Ave WRF in excess of average daily discharges of 150,500 gpd and the construction of additional infrastructure (on-site and off-site) identified in the updated sewer report as being needed for the delivery of the additional wastewater discharges to the 157th Ave WRF from the Factor Property.

18 **Enforcement**. Because City equipment does not allow the City to decrease water or wastewater flows once meters have been issued, the Parties agree that until the City issues approval to install a 4-inch water meter pursuant to Section 11 above, the City shall be entitled to take all actions required to enforce the limitations on the volume of water delivered to the Factor Property and the volume of wastewater discharged to the 157th Ave WRF from the Factor Property to the volumes set forth in this Agreement as it may be amended, including by way of example, but not limitation, terminating utility services to the Factor Property and revoking temporary certificates of occupancies and permanent certificates of occupancy of the breaching occupants of the Factor Property in the manner provided for in this Agreement. Before terminating utility services, revoking temporary certificates of occupancies, or revoking permanent certificates of occupancy, the City shall provide Owner and the breaching occupant notice of the breach and an opportunity to take actions to cure the breach. The City shall be entitled to take any of the foregoing actions if the breaching occupant fails to cure the breach within thirty (30) days following receipt of written notice, or the time frame agreed to in writing by the City and the breaching occupant or Owner, as applicable.

19 **No Owner Obligations**. The City acknowledges and agrees that the obligations set forth in Sections 4 through 9 of this Agreement are obligations of Tenant and not of Owner. Under no circumstances will Owner be required to perform the obligations set forth in Sections 4 through 9 of this Agreement or pay any amounts owed or accruing thereunder. Notwithstanding the foregoing, in the event Tenant fails to satisfy or perform its obligations under Sections 4 through 9 of this Agreement, the City shall provide notice to Owner and Owner shall have the right, but not the obligation, to satisfy or perform such obligations on Tenant's behalf.

20 Entire Agreement and Waiver. This Agreement and the exhibits referred to herein and attached hereto, constitute the sole and entire agreement between the Parties with respect to the matters covered herein and supersede any prior or contemporaneous agreements, understandings or undertakings, written or oral, by or between Parties and/or by or between any of the Parties and any third parties regarding the matters covered herein; and OWNER HEREBY WAIVES ANY AND ALL CLAIMS OWNER MAY HAVE AGAINST THE CITY, ITS STAFF AND REPRESENTATIVES RELATED TO OR ARISING FROM DISCUSSIONS, COMMUNICATIONS, REPRESENTATIONS AND THE LIKE THAT OCCURRED PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT.

21 Amendments. In order for an amendment of this Agreement to become effective, the Party seeking the amendment shall submit its proposed amendment in writing to the other Parties for review. To be effective, amendments shall be approved by the City Council, signed by the Parties and attached to this Agreement as an addendum. Amendments shall also be recorded in the Official Records of Maricopa County within ten (10) days after execution. If an amendment does not affect all of the Owner(s) or Tenant, the Amendment shall be effective when approved by the City Council, signed by the City and affected Owner(s) or Tenant and shall not be binding on any Owner or Tenant that does not sign the Amendment.

22 Covenants Running with the Land. The rights and duties under this Agreement shall be for the benefit of, and a burden upon, the Factor Property except for any portion of the Factor Property conveyed to the City, and the rights and duties under this Agreement shall be covenants running with the land.

23 Conflicts of Interest. This Agreement is subject to the provisions of A.R.S. § 38-511 and may be terminated by the City in accordance with such provisions.

24 Notices and Filings. Any and all notices, filings, approvals, consents or other communications required or permitted by this Agreement shall be given in writing and personally delivered or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

The City:
City of Goodyear
Attn: City Manager
1900 North Civic Square
Goodyear, Arizona 85395

copy to:
City of Goodyear
Attn: Director of Engineering
1900 North Civic Square
Goodyear, Arizona 85395

copy to:
City of Goodyear
Attn: City Attorney
1900 North Civic Square
Goodyear, Arizona 85395

The Owner:
Airport Gateway South, LLC
c/o Baker Development Corporation
2222 North Elston Avenue, Suite 100
Chicago, Illinois 60614
Attn: Daniel J. Slack

copy to:
Berry Riddell LLC
6750 E Camelback Rd., #100
Scottsdale, AZ 85251
Attn: Wendy Riddell

The Tenant:
FACTOR75, LLC
Attn: Legal Department
28 Liberty St., 10th Floor
New York, New York 10005
Email: us-legal@hellofresh.com

copy to:
Gammage & Burnham, PLC
Attn. Ashley Marsh, Esq.

40 North Central Avenue, 20th Floor
Phoenix, Arizona 85004

or to any other addresses as any of the Parties hereto may from time to time designate in writing and deliver in a like manner. Notices, filings, consents, approvals and communications shall be deemed to have been given as of the date of delivery if hand delivered, or as of twenty-four (24) hours following deposit in the U.S. Mail, postage prepaid and addressed as set forth above. The City shall copy Owner on any notices given by the City to Tenant under this Agreement.

25 **No Agency of Partnership**. Neither City, Tenant, nor Owner are acting as the agent of the other with respect to this Agreement, and this Agreement shall not be deemed to create a partnership, joint venture, or other business relationship between the City, Tenant, and Owner.

26 **Third Parties**. There are no thirty party beneficiaries to this Agreement.

27 **Business Days**. If the last day of any time period stated in this Agreement or the date on which any obligation to be performed under this Agreement shall fall on Saturday, Sunday or legal holiday, then the duration of such time period or the date of performance, as applicable, shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday or legal holiday.

28 **Defaults and Remedies**. Any Party shall be in default under this Agreement ("Default") if it fails to satisfy any term or condition as required under this Agreement within thirty (30) business days following written notice from the other Party ("Notice"); provided, however, that the Notice shall set forth the specific reasons for the determination that the Party has failed to satisfy any term or condition hereof. A Party shall not be in Default if the Party commences to cure any deficiencies within thirty (30) business days of receipt of Notice (or such other time period as agreed upon in writing by the Parties) and cures such deficiencies within a reasonable time thereafter.

29 **No Waiver**. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or Owner of the breach of any covenant or condition of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

30 **Mediation**. If a dispute arises out of or related to this Agreement, or breach thereof, the Parties agree first to try to settle the dispute through mediation before resorting to arbitration, litigation, or some other dispute resolution. In the event that the Parties cannot agree upon the selection of a mediator within seven (7) days, either Party may request a presiding judge of the Superior Court to assign a mediator from a list of mediators maintained by the Arizona Municipal Risk Retention Pool. If a dispute arises out of or relates to this Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the Parties agree first to try to settle the dispute through mediation before resorting to arbitration, litigation or some other dispute resolution procedure. The terms of this Section 30 shall survive the expiration or earlier termination of this Agreement.

31 **WAIVER OF JURY TRIAL**. **UNLESS EXPRESSLY PROHIBITED BY LAW, EACH OF THE CITY, TENANT AND OWNER KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY AND ALL ACTIONS OR OTHER LEGAL PROCEEDINGS AGAINST THE OTHER PARTY, ARISING OUT OF OR RELATING TO THIS AGREEMENT AND/OR THE TRANSACTIONS IT CONTEMPLATES, AND AGREES THAT ANY AND ALL ACTIONS OR OTHER LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE TRANSACTIONS IT CONTEMPLATES, AND/OR THE WORK PERFORMED PURSUANT TO THIS AGREEMENT SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THIS WAIVER APPLIES TO ANY ACTION OR OTHER LEGAL PROCEEDING, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. EACH PARTY ACKNOWLEDGES THAT IT HAS RECEIVED. THE ADVICE OF COMPETENT COUNSEL. The terms of this Section 31 waiving the right to a jury trial shall survive the expiration or earlier termination of this Agreement.**

32 **LIMITATION ON CLAIMS. IN NO EVENT SHALL CONSEQUENTIAL DAMAGES, EXPECTATION DAMAGES, AND/OR INCIDENTAL DAMAGES, WHICH INCLUDES, BUT IS NOT LIMITED, CLAIMS FOR LOST PROFITS, BE AWARDED AS DAMAGES FOR A BREACH OF THIS AGREEMENT, AND THE PARTIES EXPRESSLY WAIVE ANY RIGHT TO CONSEQUENTIAL DAMAGES, EXPECTATION DAMAGES, AND/OR INCIDENTAL DAMAGES IN THE EVENT OF A BREACH OF THIS AGREEMENT. The terms of this Section 32 limiting the remedies available to the Parties in the event of a breach of the Agreement shall survive the expiration or earlier termination of this Agreement.**

33 **Section Headings**. The section headings contained in this Agreement are for convenience in reference only and are not intended to define or limit the scope of any provision of this Agreement.

34 **Fair Interpretation**. The terms and provisions of this Agreement represent the result of negotiations between the Parties, each of which has had the opportunity to consult with counsel of their own choosing and/or has been represented by counsel of their own choosing, and none of whom has acted under any duress or compulsion, whether economic or otherwise. Consequently, the Parties agree the terms and provisions of this Agreement shall be construed according to their usual and customary meanings, and the Parties each hereby waive the application of any rule of law (common law or otherwise) that ambiguous or conflicting terms be resolved against the Party who prepared, or whose attorney prepared, the executed Agreement or any earlier draft of same. The terms of this Section 34 shall survive the expiration or earlier termination of this Agreement.

35 **Choice of Law, Venue and Attorneys' Fees**. In any dispute under this Agreement, the successful Party shall be entitled to collect from the other Party its reasonable attorneys' fees, and other costs as determined by a Court of competent jurisdiction. The

Parties agree that any dispute, controversy, claim or cause of action arising out of or related to this Agreement shall be governed by the laws of the State of Arizona. The Parties further agree that the venue for any dispute, controversy, claim or cause of action arising out of or related to this Agreement shall be Maricopa County and that any action filed shall be heard in a court of competent jurisdiction located in Maricopa County. The Parties expressly waive the right to object, for any reason, to the venue of Maricopa County. The terms of this Section 35 shall survive the expiration or earlier termination of this Agreement.

36 **Survival Clause**. All provisions in this Agreement that logically ought to survive the expiration or earlier termination of this Agreement shall survive the expiration or earlier termination of this Agreement. This includes by way of example: all provisions imposing obligations that will not be triggered until the Agreement is terminated, all indemnification provisions; all limitation of remedies and damages provisions; and all provisions waiving claims. The fact that certain provisions in this Agreement expressly state that such provisions shall survive the expiration or earlier termination of this Agreement shall not be construed as limiting the application of the Survival Clause set forth in this Section 36 to other provisions in the Agreement.

37 **Pronouns**. All pronouns contained herein, and any variations thereof, shall be deemed to refer to the masculine, feminine or neutral, singular or plural, as to the identity of the parties hereto may require.

38 **Recording.** No later than ten (10) days after this Agreement has been executed by the City, Owner, and Tenant, it shall be recorded by the City in the official records of Maricopa County, Arizona. The City shall only record this Agreement against the Factor Property, and not against the South Property, notwithstanding references in this Agreement to the Property and the South Property.

39 **Authority**. The Parties to this Agreement represent to each other that they have full power and authority to enter into this Agreement and the individuals signing on behalf of each Party is duly authority to bind such Party.

40 **Counterparts**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one agreement, binding on the Parties. Further this Agreement may be executed and delivered by electronic transmission. A manually signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement provided however, Owner and Tenant shall deliver an original to the City for recordation in the Official Records of Maricopa County.

41 **Page Numbering**. The page numbering of this Agreement is exclusive of the Exhibit attached hereto.

IN WITNESS WHEREOF, and agreeing to be bound by the terms of this Agreement the Parties have caused this Agreement to be executed by their duly appointed representatives.

[Signatures of the Parties Appear on the Following Pages]

CITY OF GOODYEAR,
an Arizona municipal corporation:

_____
By: Wynette Reed
Its: City Manager

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023 by Wynette Reed, the City Manager of the City of Goodyear, an Arizona municipal corporation, for and on behalf of the municipal corporation.

_____

Notary Public

My Commission Expires: _____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

OWNER:

AIRPORT GATEWAY SOUTH PROPERTY LLC,
a Delaware limited liability company

By: _____
Name:
Its:_____

STATE OF _____)
) ss.
County of _____)

The foregoing instrument entitled Development Agreement for Airport Gateway South consisting of ___ total pages was acknowledged before me this ___ day of _____ 2023, by _____, _____ who acknowledged that he signed the foregoing instrument on behalf of the Owner.

_____
Notary Public

My Commission Expires:
_____

TENANT:

Name

FACTOR75, LLC, a Delaware limited liability company

By: _____
Name

Its:_____

STATE OF _____)
) ss.
County of _____)

The foregoing instrument entitled Development Agreement for Airport Gateway South consisting of ___ total pages was acknowledged before me this ___ day of _____ 2023, by _____, _____ who acknowledged that he signed the foregoing instrument on behalf of the Tenant.

_____
Notary Public

My Commission Expires:
_____

LENDER CONSENT:

The undersigned, as beneficiary under that certain deed of trust and fixture filing recorded in the official records of Maricopa County, AZ at Document No. [ENTER RECORDING INFORMATION], dated April 13, 2021, encumbering all or part of the Factor Property, hereby expressly consents to and joins in the execution and recording of this Development Agreement for Airport Gateway South. The undersigned represents that he or she has full power and authority to execute this Lender's consent on behalf o the lender, as beneficiary under that certain deed of trust and fixture filing recorded in the official records of Maricopa County, AZ at Document No. [ENTER RECORDING INFORMATION].

[BANK NAME]

By: _____
Name: _____
Its: _____

Dated: _____

STATE OF _____)
) ss.
County of _____)

The foregoing instrument entitled Development Agreement for Airport Gateway South consisting of ___ total pages was acknowledged before me this ___ day of _____ 2023, by _____, _____ who acknowledged that he signed the foregoing instrument on behalf of the Lender.

_____
Notary Public

My Commission Expires:
_____

_____

EXHIBIT A

Legal Description of the Factor Property

Lot 6B-2 of the Minor Land Division for Airport Gateway South, according to the plat of record in the Office of the County Recorder of Maricopa County, Arizona in Book 1696 of Maps, Page 4 (Instrument 2022-0724154).

ITEM #: 10.
DATE: 09/25/2023
AI #:1598

CITY COUNCIL ACTION REPORT

SUBJECT: REZONE WEST OF THE SOUTHWEST CORNER OF ESTRELLA PARKWAY AND VAN BUREN STREET TO FINAL PAD WITH UNDERLYING MF-24 (MULTI-FAMILY) ZONING

STAFF PRESENTER(S): Karen Craver, AICP, Principal Planner

OTHER PRESENTER(S):
Brennan Ray, Burch & Cracchiolo, P.A.

SUMMARY

A request for a rezone of approximately 11.37 acres 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 for the anticipated 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.

STRATEGIC PLAN ALIGNMENT

Quality of Life

RECOMMENDATION

PLANNING AND ZONING COMMISSION RECOMMENDATION:

1. DENY THE REQUEST TO REZONE THE PROPERTY FROM FINAL PLANNED AREA DEVELOPMENT (PAD) WITH UNDERLYING C-2 (GENERAL COMMERCIAL) ZONING TO FINAL PAD WITH UNDERLYING MF-24 (MULTI-FAMILY) ZONING; OR

ALTERNATIVE ACTION TO APPROVE:

2. ADOPT RESOLUTION NO. 2023-2349 DECLARING AS PUBLIC RECORDS THOSE CERTAIN DOCUMENTS INCORPORATED BY REFERENCE IN ORDINANCE 2023-1593 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; and

3. ADOPT ORDINANCE NO. 2023-1593 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. (Karen Craver, Principal Planner)

FISCAL IMPACT

Although a fiscal impact analysis has not been conducted on this specific project, all new development will have an ongoing fiscal impact on the City. The development is responsible for construction of all infrastructure necessary to serve the site and will generate one-time revenue for the City through payment of permits, construction sales tax and development impact fees. Longer term fiscal impacts include increased demands for municipal services, the costs of which may or may not be offset by increased property values/tax levies, city sales tax, state shared revenues and the increased demand for commercial and retail development. Any areas that will be maintained by the city are constructed by the developer and then conveyed to the city two years after construction.

BACKGROUND AND PREVIOUS ACTIONS

The approximately 11.37 acres west of the southwest corner of Estrella Parkway and Van Buren Street (the “Property”) that is the subject of this rezoning application are part of the 19.1 acres that were rezoned to Final Planned Area Development (PAD) with underlying C-2 (General Commercial) zoning as part of the overall approval of the Hudson Commons PAD. Approved by the City Council in 2016, with the adoption of Ordinance No. 16-1326 on January 11, 2016, the 102-acre PAD included a 16.6-acre multi-family parcel and a 66.5-acre single family parcel, as well was the 19.1 acres of commercial zoning. Since the 2016 PAD approval, the multi-family parcel was developed with a single-story rental product, and development of the single-family parcel is nearing completion.

The Planning and Zoning Commission considered this item at a public hearing held on September 13, 2023, and as described later herein, a recommendation of denial is being forwarded to the City Council. This rezoning application has not previously been presented to the City Council.

STAFF ANALYSIS

Current Policy:

A request to rezone property requires public review by the Planning and Zoning Commission and public review and approval by the City Council. The proposed rezone must be consistent with the General Plan and should not adversely impact the surrounding area.

Details of the Request:

The proposed rezoning changes the designation of the Property, subject to the Hudson Commons PAD adopted by Ordinance 2016-1326, from C-2 to MF-24. Under the proposed rezoning, the Property would be developed in accordance with the requirements of the MF-24

zoning in the Hudson Commons PAD, as modified by the stipulations in Ordinance 2016-1326, with the following exceptions.

- It modifies the building setback along the western boundary of the Property
- It increases the maximum height allowed if the Property is developed as MF-24 (unsubdivided) for one building located along the frontage of Van Buren Street from 40 feet to 50 feet
- It includes requirements for additional design elements
- It allows encroachments of up to 5 feet above the maximum building height for the Property, subject to the Hudson Commons PAD, for parapets, architectural features, screening, and the like
- It includes terms that will allow for an increase in the density from 24 du/ac to 25 du/ac if the Property is developed as MF-24 (unsubdivided) in exchange for additional recreational open space amenities
- It reduces the perimeter landscape setback along the western boundary of the Property from 20 feet to 12 feet if the Property is developed as MF-24 (unsubdivided)

The modifications are needed to support the development of a project to be known as “The Statler at Estrella Parkway,” which is described below.

The applicant/owner, Leon Capital Group (LCG), anticipates developing a 4-building apartment complex, to be known as “The Statler at Estrella Parkway”, on the Property, located on the south side of Van Buren Street, approximately 250 feet west of Estrella Parkway between the developing commercial parcel of the Hudson Commons PAD and the single-family parcel of the PAD that is nearing completion. The Property extends from Van Buren south to Hudson Way, a public collector street extending west from Estrella Parkway. As the property currently has an underlying C-2 (General Commercial) zoning, a rezoning to multi-family is required to facilitate the anticipated development of the property. If this rezone is approved, LCG intends to submit a site plan application for the apartment complex.

The Conceptual Site Plan submitted with the rezoning application depicts two 3-story apartment buildings, one adjacent to Hudson Way and one on three sides of the clubhouse/leasing office building and amenity area in the center of the site, and one 4-story apartment building adjacent to the Van Buren Street frontage of the Property that steps down to 3-stories along the western side of the building. Within the three apartment buildings, LCG is proposing 284 units on the 11.37-acre Property, for a density of 25 du/ac. The requested underlying MF-24 zoning allows a maximum of 24 du/ac. As depicted on the Conceptual Site Plan, the 284 units are comprised of:

- 156 one-bedroom units
- 118 two-bedroom units
- 10 three-bedroom units

To achieve the 25 du/ac, LCG is also proposing that the 4-story building be constructed at a maximum height of 50 feet. The requested underlying MF-24 zoning allows a maximum building height of 40 feet. As such, a request for an additional 10 feet of building height is a part of this rezoning application.

The Conceptual Site Plan submitted with the rezoning application also depicts a 12-foot wide landscape buffer along the west property line adjacent to the Hudson Commons PAD single-family parcel. The PAD approved in 2016 required a 20-foot landscape buffer between the original 19.1-acre commercial parcel and the single-family parcel. As such, a request to reduce the landscape buffer from 20 feet to 12 feet is part of this rezoning application.



The rezoning increases the maximum height of one building fronting Van Buren Street from 40 feet to 50 feet. In requesting approval of a maximum building height of 50 feet for this building, LCG has agreed that the following design enhancements will be required to be included in the development of the Property.

1. 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
2. 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
3. Building elevations shall include awnings or other shade structures over balconies and patios; and
4. 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
5. 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
6. 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.

With the cited design enhancements, which staff has recommended a stipulation of approval for compliance with, staff is able to support the requested maximum building height of 50 feet.

The applicant is requesting approval of a maximum density of 25 du/ac, if the property is developed as MF-24 (unsubdivided). With the provision of additional recreational open space amenities in excess of the minimum requirements in the Hudson Commons PAD, for which staff has recommended a stipulation of approval, staff is able to support the requested maximum density of 25 du/ac.

Staff is also able to support the reduction of the landscape buffer width along the west property

line adjacent to the single-family parcel from 20 feet to 12 feet if the rezoning application to change the underlying zoning from C-2 to MF-24 is approved.

Two items included with the rezoning application that staff is not yet able to support are the Recreation Open Space Areas plan, and the Parking Reduction Statement, which included the reduced parking plan depicted on the Conceptual Site Plan. Staff and LCG began discussions on additional components of both items, that if provided, could result in staff support of them. Staff has recommended a stipulation of approval that both items be revised, per the discussions that have been held, and submitted with the site plan application if the rezone is approved.

Evaluation Criteria:

1. *Consistency with the General Plan.*
The 2025 Goodyear General 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. The requested rezone to Final PAD with underlying MF-24 zoning to facilitate the development of a 3 & 4-story (50 feet high) 284-unit apartment complex at a density of 25 dwelling units per acre is consistent with the General Plan.

2. *Suitability of the subject property's physical and natural features for the uses permitted under the proposed zoning district.*
The Property is a vacant, flat site which has been previously used for agriculture. The Property's physical and natural features are suitable for the development of a 3 & 4-story (50 feet high) 284-unit apartment complex at a density of 25 dwelling units per acre.

3. *Compatibility of all potential uses allowed in the proposed zoning district with surrounding uses and zoning.*
Uses and zoning surrounding the Property include:

North – Canyon Trails Plaza (Safeway) zoned PAD with underlying C-2 zoning
South – The Bungalows at Estrella (single-story rental) zoned PAD with underlying MF-24 zoning
East – Hudson Commons commercial development including Culver's and SomeBurros, as well as the remainder of the commercial parcel, zoned PAD with underlying C-2 zoning
West – Hudson Commons single-family development zoned PAD with underlying SF zoning

The proposed 3 & 4-story (50 feet high) 284-unit apartment complex meets the City of Goodyear Zoning Ordinance MF-24 zoning district building setback requirement of 50 feet + 5 feet for every foot over 30 feet from single-family residential zoning. Building 1, the 4-story building, has a setback requirement of 150 feet and the Conceptual Site Plan complies with that requirement. Buildings 2 and 3, the 3-story buildings, have a setback requirement of 100 feet, and the Conceptual Site Plan depicts 100' 3" and 110' 8", respectively.

4. *Proposed zoning district's consistency with other land uses within the immediate area and whether uses allowed under proposed zoning district would be better suited to the subject property than the uses allowed under current zoning*.

There is both existing multi-family development and existing commercial development within the 102-acre Hudson Commons PAD. Compatibility between the proposed 3 & 4-story multi-family development with the existing single-family development can be addressed with

significant setbacks and landscaping, as required by the Zoning Ordinance and depicted on the Conceptual Site Plan, as well as placement of activity areas away from the single-family development. If the rezone is approved, the landscaping and the placement of the activity areas will be further evaluated during the site plan review process.

Luke Air Force Base:
The Property is located approximately 3 miles outside the Luke AFB 1988 JLUS 65 Ldn, “high noise or accident potential zone” as identified by A.R.S. § 28-8461 and is within the “territory in the vicinity of a military airport” also defined by A.R.S. § 28-8461. Luke provided a letter to staff stating that, as described in the Project Narrative, the proposal for development of the Property will not negatively impact the flying operations of Luke AFB.

Phoenix-Goodyear Airport:
The Phoenix-Goodyear Airport was notified of the rezone request; however, staff has received no inquiries from the Airport as a result of the notification.

5. *Demand for the types of uses permitted in the proposed zoning district in relation to amount of land currently zoned and available to accommodate the demand.*
Currently, there are approximately 3,600 built apartments in the city, approximately 3,100 under construction, and an additional 6,100 entitled through rezoning approvals and site plan approvals.

6. *Demands for public services that will be generated by the uses permitted in the proposed zoning district.*
Below is a summary of impact to public services.

Fire Response:
Emergency response times and distances are provided below:

Nearest Goodyear Fire Station	Shortest path		Second Nearest Goodyear Fire Station	Shortest path	
#184 (Yuma Rd)	Min 3.68	Miles 1.84	#181 (143rd Ave)	Mins 3.69	Miles 1.84

Police Response:
The Property is located within an existing Police patrol beat and the proposed rezone to Final PAD with underlying MF-24 (Multi-Family) zoning does not alter the current level of service within the beat.

Streets/Transportation:
If developed as anticipated, the apartment complex will have direct access from Van Buren Street at a full median break, and from Hudson Way; a public collector street extending west from Estrella Parkway that currently provides access to the single-story rental development to the south of the Property, and to the single-family development to the west of the Property. The complex will also be accessed from Estrella Parkway via an existing drive aisle that extends in a westerly direction north of Culver’s. The complex lay-out is such that the drive aisle from Estrella Parkway will lead directly to the Statler clubhouse and leasing office.

Water/Wastewater:
The Property is located within the City of Goodyear water service area and wastewater service area. The Owner shall construct all on-site and off-site infrastructure improvements

determined by the City as being necessary to provide water service and wastewater service to the Property.

Solid Waste/Recycling:
Solid waste and recycling services for the Property will be contracted through a commercial provider.

7. *Potential adverse fiscal impacts that will result from providing services to areas not in proximity to where existing public services are provided.*
The Property is in proximity to where existing public services are provided.

8. *General public's concerns.*
Public Participation:

Citizen Review Process:
In accordance with the city's Citizen Review process, a Neighborhood meeting was held on Wednesday, July 19th, 2023, at 6 p.m. in the Canyon Trails Conference Rooms at City Hall. A postcard had been mailed on June 28th to the owners of all property within 500 feet of the Property, and the Hudson Commons single-family HOA, notifying them of the rezone request; the scheduled Neighborhood meeting; directing them to the city website for additional information; and providing both staff and applicant contact information.

Approximately 20 people attended the Neighborhood meeting and over half of the people spoke in opposition to the rezoning request. Points of opposition included loss of commercially zoned land, overbuilding of multi-family, loss in home values, additional lights and noise, additional traffic causing accidents, and overcrowding of schools. Planning staff also received three emails in the days after the Neighborhood meeting, also in oppositions to the request for the same reasons.

Planning & Zoning Commission Meeting:

Notice of the September 13th public hearing before the Planning and Zoning Commission and the September 25th public hearing before the City Council included a postcard mailed on August 22nd to the owners of all property within 500 feet of the Property, and the Hudson Commons single-family HOA; a legal notice/display ad published in the Southwest Valley Republic on August 25th; and two notice of public hearings signs posted on the Property on August 29th.

At the start of the Planning and Zoning Commission public hearing on this item, staff let the Commissioners know that 25 emails in opposition to the rezoning application had been received and that copies had been provided on the dais. Following a presentation of the application by staff, Commissioner Sambito voiced her concerns that the requested high-density residential does not meet all the locational criteria of the General Plan Business & Commerce designation, and that the request was made for MF-24 zoning, but that additional height and density were both being requested. The Commissioner also suggested that other product types, such as condos or townhouses, would be more appropriate in this particular location. Commissioners Booth and Hegedus also voiced their concerns about there already being so many apartments and so much traffic in the immediate vicinity, and the need for the additional city services that would be required for the high-density apartment complex.

Following a presentation by Brennan Ray, local legal representative for Leon Capital Group of

Dallas, Texas, five homeowners in the Hudson Commons single-family development and one homeowner in the Bella Rosa single-family development on the north side of Van Buren Street spoke against the rezoning of the commercial property to multi-family. Ten other people in attendance also submitted cards stating their opposition to the rezoning. The points of opposition, many of which were shared by all the speakers, were:

- They built in the SF developments because they wanted to be in a quiet residential neighborhood, but with easy, walkable access to the 19 acres of commercial planned at Hudson Commons;
- They thought the 19 acres of commercial would provide walkable access to job opportunities for their high school aged kids;
- They wanted the sit-down restaurants with outdoor seating, attractions, and neighborhood drinking spots that could be built on the 19 acres, rather than be limited to drive-thru restaurants because of the narrowness of the remaining 8 acres along the Estrella frontage;
- They wanted to be part of a mixed-use community where all the uses would benefit everyone in the community;
- They are concerned about the density and height of the 3 & 4-story apartment complex, and the traffic it would generate;
- They are concerned that beyond the requested MF-24 zoning with a density of 24 du/ac and a maximum height of 40 feet, that an additional 11 units (25 du/ac) and an additional 10 feet of height (building 1 at 50 feet) are also being requested;
- They are concerned that the 20-foot buffer that was originally approved in the Hudson Commons PAD is being reduced to 12 feet;
- They are concerned that the existing congestion getting out of their communities onto Estrella Parkway and Van Buren would be exacerbated; and
- They are concerned that already over-crowded schools would become even more overcrowded

Following the comments of the residents, a motion to approve the rezoning was made and seconded, but failed by a vote of 1 to 4. Pursuant to the Commission By-laws, which state "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." Therefore, given the preceding By-law, the Planning & Zoning Commission recommendation on the rezoning of the Property from C-2 (General Commercial) to MF-24 (Multi-Family) is for denial.

9. *Whether the amendment promotes orderly growth and development.*
If the rezone is approved, high density multi-family, which includes the anticipated 3 & 4-story (50 feet high) 284-unit apartment complex at a density of 25 dwelling units per acre, will be developed consistent with the existing General Plan Business & Commerce designation. The consistency promotes the orderly growth and development of the area.

10. *Any other factors related to the impact of the amendment on the general health, safety and welfare of the citizens of the City and the general public.*
The stipulations of approval have been recommended in order to minimize impacts of the rezone on the citizens of the City and the general public.

Staff Findings:
Pursuant to the above evaluation of this rezoning request, staff finds that approval of the request, as set forth in Draft Ordinance No. 2023-1593, promotes continued orderly growth and development in conformance with the city's General Plan, Zoning Ordinance, Design

Guidelines, and Engineering Standards. However, as previously noted herein, the Planning and Zoning Commission recommendation on this request is for denial.

Attachments

Resolution No. 2023-2349
Supplementary Zoning Map
Legal Description
Ordinance No. 2023-1593
Aerial Photo
Rezoning Narrative
Conceptual Site Plan
Conceptual Landscape Plan
Conceptual Building Elevations
LCG at Estrella Staff Presentation
LCG at Estrella Applicant Presentation

RESOLUTION NO. 2023-2349

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, DECLARING AS PUBLIC RECORDS THOSE CERTAIN DOCUMENTS INCORPORATED BY REFERENCE IN ORDINANCE 2023-1593 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.

Be it resolved by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, as follows:

SECTION 1. DECLARATION OF PUBLIC RECORDS

That certain document titled “Official Supplementary Zoning Map No. 22-11A”, a copy of which is attached hereto as Exhibit A, is hereby declared a public record.

That certain document titled “Legal Description – LCG at Estrella Parkway”, a copy of which is attached hereto as Exhibit B, is hereby declared a public record.

SECTION 2. PURPOSE

The aforementioned documents are declared public records in connection with the adoption of Ordinance 2023-1593.

SECTION 3. COPIES FILED WITH THE CITY CLERK

Either three paper copies or one paper copy and one electronic copy maintained in compliance with section A.R.S 44-7041 of each of the aforementioned documents being declared public records herein are ordered to remain on file with the City Clerk and to be available for public use and inspection during regular business hours.

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:

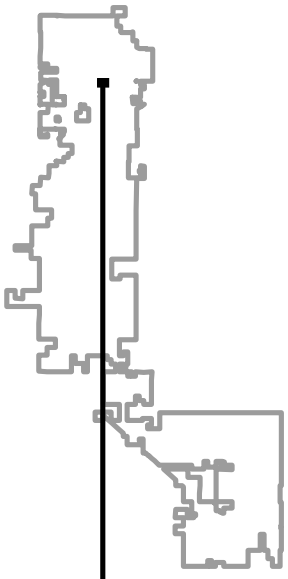
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

Roric Massey, City Attorney

OFFICIAL SUPPLEMENTARY ZONING MAP NO. 22-11A

AMENDING ARTICLE 1, SECTION 1-1-4 OF THE ZONING ORDINANCE OF THE CITY OF GOODYEAR. AMENDED BY ORDINANCE NO._____, PASSED BY THE CITY COUNCIL OF THE CITY OF GOODYEAR, ARIZONA, THIS _____ DAY OF _____, 2023.

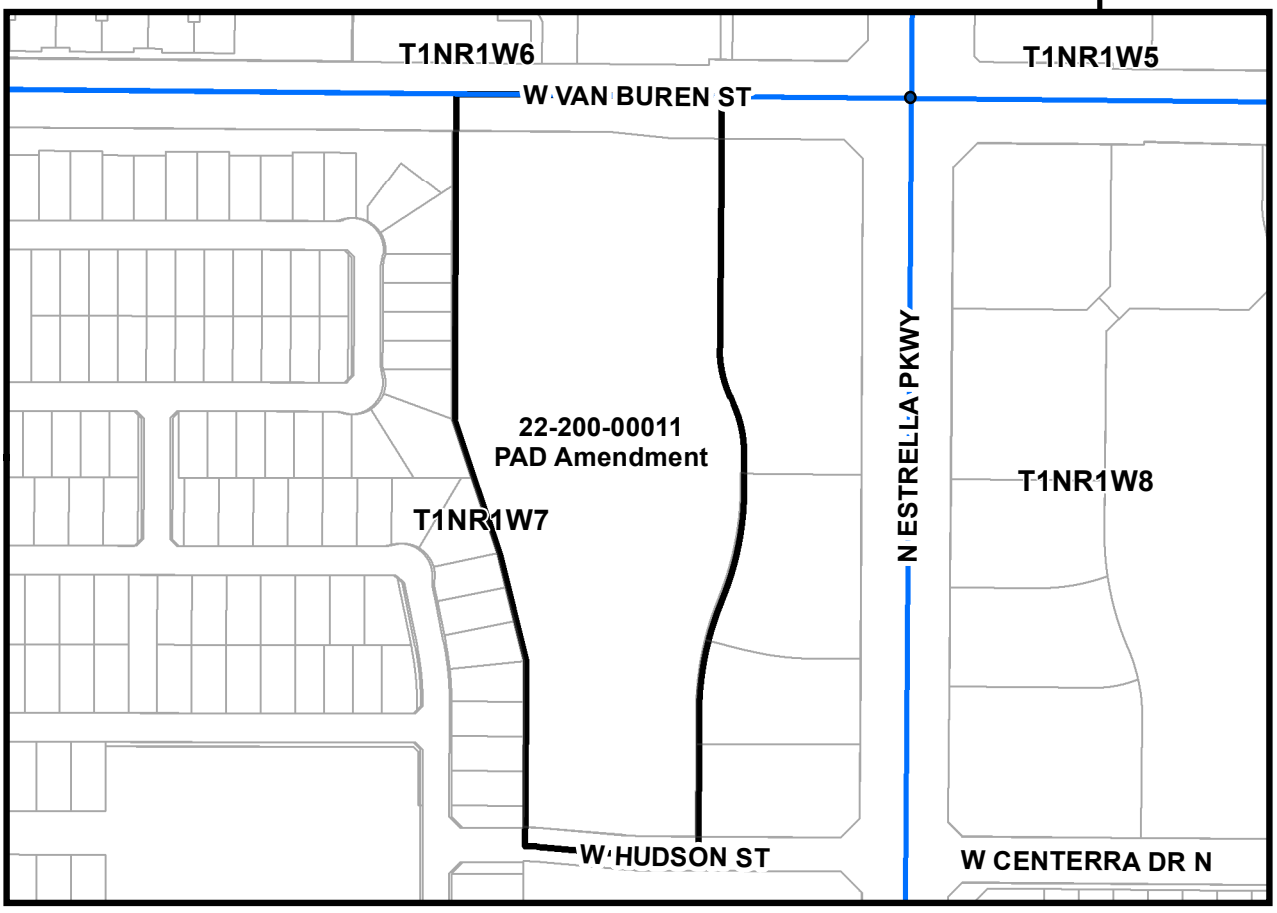


_____
MAYOR

_____
CITY CLERK

SUBJECT PROPERTY:

A portion of the Northwest Quarter Section 7, Township 1 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.



SOURCE: CITY OF GOODYEAR G.I.S.

CITY OF GOODYEAR, AZ - REZONE CASE

EXHIBIT		DATE:
A	REZONE FROM Final PAD TO PAD AMENDMENT 23-200-00011	July 2023

Exhibit B
Legal Description
LCG at Estrella Parkway

A portion of W Van Buren Street, W Hudson Street and Lot I as shown on the Minor Land Division for Hudson Commons, recorded in Book 1420, Page 25, Maricopa County Records (MCR), lying within the northeast quarter of Section 7, Township 1 North, Range I West, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the northeast comer of said Section 7, a brass cap in handhole, from which the north quarter corner of said Section 7, bears North 89°42'17" West, a distance of 2602,1 I feet;

Thence along the north line of the northeast quarter of said Section, North 89°42' 17" West, a distance of 328.71 feet, to the **Point of Beginning;**

Thence leaving said north line, South 00°10'47" West, a distance of 75.00 feet, to the southerly right-of-way line of W Van Buren Street;

Thence leaving said southerly right-of-way line, South 00° 10'47" West, a distance of 363.76 feet, to the beginning of a curve, concave northeasterly, having a radius of 200.00 feet;

Thence southeasterly along said curve, an arc length of 87.05 feet, through a central angle of 24°56' 15";

Thence South 24°45'28" East, a distance of 15.21 feet, to the beginning of a curve, concave southwesterly, having a radius of 200.00 feet;

Thence southeasterly along said curve, an arc length of 87.05 feet, through a central angle of 24°56' 15";

Thence South 00° 10'47" West, a distance of 65.41 feet, to the beginning of a curve, concave northwesterly, having a radius of 500.00 feet;

Thence southwesterly along said curve, an arc length of 194.88 feet, through a central angle of 22° 19'54", to the point of reverse curvature, having a radius of 500.00 feet;

Thence southwesterly along said curve, an arc length of 194.88 feet, through a central angle of22° I 9'54";

Thence South 00° 10'47" West, a distance of224.26 feet, to the northerly right-of-way line of W Hudson Street;

Thence leaving said northerly right-of-way line, South 00° I 0'4 7" West, a distance of 30.00 feet, to the centerline of said W Hudson Street;
Thence along said centerline, North 89°49'13" West, a distance of 83.87 feet, to the beginning of a curve, concave northerly, having a radius of 500.00 feet;

Thence westerly along said curve, an arc length of 41.10 feet, through a central angle of 4°42'33";

Thence North 85°06'42" West, a distance of 150.46 feet, to the beginning of a curve, concave southerly, having a radius of 500.00 feet;

Thence westerly along said curve, an arc length of 25.09 feet, through a central of 2°52'29";

Thence leaving said centerline, North 00°00' 15" East, a distance of 30.02 feet, to the westerly line of said Lot 1;

Thence along said westerly I ine, North 00°00' 15" East, a distance of 290.62 feet;

Thence North 14°08'46" West, a distance of 190.63 feet;

Thence North 18°42' 18" West, a distance of 247.53 feet;

Thence North 00°00'15" East, a distance of 501.76 feet, to the southerly right-of-way line of W Yan Buren Street;

Thence leaving said southerly right-of-way line, North 00° 17'43" East, a distance of 65.00 feet, lo the north line of the northeast quarter of said Section;

Thence along said north line, South 89°42' 17" East, a distance of 460.89 feet, to the **Point of Beginning.**

Containing 535,774 Square Feet or 12.30 Acres more or less.
Subject to easements, restrictions and rights of way of record.

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 horizonal 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 sitpulations 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:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

Aerial Exhibit
22-200-00011
LCG at Estrella Parkway (Hudson Commons)



7/18/2023 8:31:07 AM

Narrative

for

The Statler at

Estrella Parkway

West of Estrella Parkway on the south side of Van Buren Street

Case No: 22-20000011

Submitted: May 5, 2022
Updated: March 3, 2023
Updated: June 21, 2023
Updated: August 9, 2023

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AMENDED FINAL PAD NARRATIVE

I. INTRODUCTION

Leon Capital Group ("LCG") is the owner and proposed developer of approximately 11.37 net acres west of the southwest corner of Estrella Parkway and Van Buren Avenue (the "Site"). ***See Exhibit 1, Site Aerial***. The Site is part of the Hudson Commons PAD, an approximate 102-acre master-planned development that was zoned in 2015 for a mix of single-family residential, multi-family residential, and commercial uses. LCG seeks to build on its reputation for developing high-quality and successful multi-family communities in the greater Phoenix Metro Area and other parts of the country. The Site is anticipated to be developed as an urban-scale multi-family community with approximately 284 dwellings (a density of 25 net dus/ac) known as "**The Statler at Estrella Parkway**." The Statler at Estrella Parkway is consistent with the intent of the 2015 Hudson Commons PAD: to provide a high-quality mixed-use development, a mixture of residential uses, and the City's desire to provide residential density to attract the commercial and entertainment development desired in the area.

Approximately 19.1 gross acres, including the Site, was zoned under the 2015 Hudson Commons PAD for commercial uses (C-2). LCG has filed an application to amend the existing PAD and zoning on the Site from commercial to multi-family and to establish the requirements to increase building height and density and reduce landscape setback along the Site's western boundary. Specifically, LCG is requesting the Site be rezoned from C-2 PAD to MF-24 PAD within the 2015 Hudson Commons PAD. Rezoning the Site from commercial to multi-family makes good land use sense on this Site. As is described below, there are significant commercial developments within a two-mile radius, including Canyon Trails, Parkway Village, Walmart Supercenter, Goodyear Village Center, Palm Valley Crossing, Canyon Trails Towne Center, and future commercial within the Ballpark Village area. Additional housing opportunities in this area will provide important support to the existing and future commercial developments.

Despite the Site's commercial zoning since 2015, it has failed to develop consistent with the entitlements notwithstanding the substantial and significant commercial and residential growth that has occurred in the City and Maricopa County. Under the 2015 Hudson Commons PAD this Site was part of a larger area (approximately 19.1 acres) zoned commercial. It was contemplated this commercial area (including the Site) would develop with two hotels and a commercial "anchor" building with a series of restaurants and retail pads along the perimeter street frontage. The Site was under contract with a hotel developer but when the COVD-19 Pandemic occurred in 2020, the developer dropped the Site and hotel developments have struggled to recover. A portion of the Estrella Parkway frontage has been developed with a Culver's and Someburros restaurant, while the balance of the commercial area along Estrella Parkway is undeveloped but will retain its commercial zoning.

As a result of market conditions, the Site is not viable and sustainable for hotel uses. In the absence of the hotel, a large-scale planned commercial development on this 19± acre site requires a major anchor (e.g., grocery or home improvement store) for it to be sustainable. Although located at the corner of two arterial streets, the 19± acre site faces significant challenges to be a viable and sustainable development with a major anchor. Within a two-mile radius of the Site is a Safeway, Walgreens, Walmart Supercenter, Fry's, Target, and Ace Hardware. Given these existing "major" tenants in the area it becomes unlikely a "major" tenant of the necessary size and scale will want to locate on the Site.

Additionally, considerable changes have occurred throughout the commercial landscape in a short time since the 2015 approvals. Over the past few decades, e-commerce has been rising rapidly transforming the way people buy and sell goods and services. The widespread adoption of the internet and advancements in technology have paved the way for a convenient online shopping experience, with customers able to browse and purchase products from their homes or on the go. E-commerce logistics and supply chain management also contribute to this rapid expansion. Companies have invested heavily in developing efficient warehousing, inventory management, and delivery solutions. The integration of automation technologies, such as robotics and AI-powered systems, has streamlined order fulfillment processes, reduced delivery times, and enhanced overall customer satisfaction. The COVID-19 pandemic was a significant catalyst for e-commerce growth, further impacting traditional retail developments.

II. PROPOSED DEVELOPMENT PLANS

The Statler at Estrella Parkway is attractively designed, aesthetically landscaped, and provides an appropriate use of this Site. The development will be a gated community that will consist of approximately 284 residences. ***See Exhibit 2, Preliminary Site Plan***. The design of The Statler at Estrella Parkway implements the requirements from the 2015 Hudson Commons PAD and includes high-quality architectural elements with a modern aesthetic, landscaping palettes consistent with native plantings, walls/fences, monument signage and appropriate building signage, and a color and materials palette that is consistent with the public facilities and architectural intent the City has put forth along the gateway to the Estella Mountains. The placement of the buildings and horizontal movement of exterior walls provide visual interest by varying the roof lines and orientations and providing a coordinated theme through the amenities, landscape features, and architectural detail. The proposed design and layout also provides intentional, convenient, safe, and attractive pedestrian connections throughout the Site and to the adjacent uses. Particular attention has been given to providing pedestrians with convenient, well shaded access to centrally located amenities and open space areas. In five separate locations throughout the site, the ten-foot fire lane setbacks along each elevation of garage doors, has been repurposed from asphalt hardscape to nearby planted and pedestrian open space.

The design of the buildings and architecture is intended to create a visually pleasing environment for residents and the passing public. ***See Exhibit 3, Perspectives and Exhibit 4, Building Elevations.*** The building features, windows and doors, materials, colors, and massing provide a clean lined modern aesthetic. Carefully composed smooth stucco, masonry veneer, stained look wood grain cementitious siding, stone veneer, metal balcony railing, and metal look cementitious panels provide accent to the visual experience and provide a more permanent material palette with the intent of being difficult to modify in the future. Blue architectural paneling provides a metallic shine and focal point on major elevations, and copper-colored architectural corner pieces provide a local nod toward Arizona copper. The 2-story amenity building includes all materials found on the three larger structures, placing emphasis on quality, differentiating design, and consistency throughout the project.

The building exteriors are strategic toward reducing energy consumption. Eaves along the top of the parapet walls and balcony canopies deflect high midday sun. Private outdoor spaces are stacked so that the unit above shades the unit below, inviting the residents from indoors to outdoors. The perimeter massing of each building includes numerous corners. Each corner assists to shade various portions of each building during varying times of the day, particularly when the sun is low in the morning and end of day.

From the intersection of Van Buren Street and Estrella Parkway, the 4-story building complements the City's desire for an urban edge in this area. In order to be sensitive to the neighbors to the west and address potential concerns, the southwestern building has been reduced from four stories to three stories. This reduced height in combination with the 150-foot setback will lessen any impact on the neighboring single-family neighborhood. The urban edge on the Van Buren and Estrella intersection is further enhanced by a shaded north-eastern corner, public art plaza that will include a large modern metal sculpture and seating for pedestrians to enjoy. The corner units include generous private open balcony space with glass railing. Midway in the building along Van Buren Street, a thin vertical mass of copper-like paneling provides a place for signage and a gated welcome to both the property and the building lobby.

At street level, the stone veneer along the base of the buildings offers a visual foundation to the architecture and a more permanent material and pallet at the pedestrian level. Residents enjoying their private outdoor balcony spaces create an active front porch opportunity for spontaneous social interaction among the residents and the greater community.

The landscaping concept as shown on ***Exhibit 5, Landscape Plan***, advocates the use of a planting scheme that will be carefully blended with the responsible use of turf. Drought tolerant plants will be used extensively, except near turf areas where supplemental irrigation is available. Plants will be appropriately sited for best aesthetic value and to provide shade. This applies to all streetscapes, paths, and entry treatments to the development. All plant materials will adhere to or exceed, the City's minimum requirements. Recreational open space is distributed throughout the project in amounts that exceed City of Goodyear requirements. ***Recreational Open Space Exhibits, Exhibit 6*** further details these areas which are activated with seating nodes, outdoor games, art features, shaded areas, and pet amenities. Improved walkways create seamless connections between these various open spaces, providing residents a serene outdoor retreat to explore. Where connections pass beneath a roof, differential floor material, art, potted plants, and seating are placed to create gathering spaces. Internal to buildings, and located at the end of open-air corridors, are alcoves containing seating, potted plants, and art for residents to relax and enjoy the fresh air within a short walk of their homes. Cyclists will find a creative repair space with tools, workbenches, and a seating lounge to unwind after a long ride. Recreational open space also includes an 8,802 square foot clubhouse with a roughly 1,000 square foot roof deck.

The amenity areas within the development are designed to enhance the community character and quality of life by providing recreational opportunities and connectivity for residents through the integration of effective internal and external open spaces. The amenity and theming elements have been designed to maintain the overall "sense of place" and identity of the community. The gated development offers a variety of amenities including a two-level resident clubhouse with second story view deck and BBQ, resort-style community pool, tuck-under private garages, fitness/studio center, ramada, large dog park with dog wash, bike repair and storage, and a delineated decomposed granite walking path that will encircle the property allowing residents to exercise and track their distances. Additionally, the community has been thoughtfully designed with several gathering spaces and passive seating areas conveniently located throughout the Site where residents can relax and socialize. The majority of the outdoor amenities are located within a centralized area, which will be convenient for residents and screened from off-site areas.

In addition to the City's typical requirements for multi-family developments, the development provides the following additional items that exceed the City's requirements:

- Two accent paved pedestrian pathways provided along the east property line connecting the development to the adjacent retail uses. One will be north of the main gate and one to south. Two pedestrian gates are also provided along Van Buren Street.
- A delineated walking path that will take residents around the interior and exterior (in some instances put them onto the public sidewalks) that will be used as an exercise track. It will be marked with signs indicating distances achieved, this could also be used to walk dogs.
- A larger than typical dog park with shade structures and dog wash area.
- Recreational open space of 406 square feet/unit compared to 400 square feet/unit that is required.
- Second story view deck above the clubhouse.
- Three points of vehicular access.
- Dedicated space for residents to make bike repairs.
- Public Plaza with large sculpture.

III. PROPOSED DEVELOPMENT STANDARDS

Through the amendment to the Hudson Commons PAD, LCG seeks to create a high-quality development that provides additional housing options for the surrounding area, additional support to the substantial amount of existing and planned commercial adjacent to the Site and within a 2-mile radius, and is a viable and sustainable solution on property that faces significant challenges from an ever-changing commercial environment to develop under the current Commercial zoning. The layout and theming reflects LCG's commitment to provide a community that is thoughtfully designed, creating an environment where residents and guests will want to live, socialize, and recreate. Additionally, the scale and design of The Statler at Estrella Parkway is appropriate for the area given the development's proximity to commercial, employment, and recreational opportunities in the Estrella Parkway and I-10 Freeway corridors.

To achieve this, LCG has added requirements in the Amended PAD to increase the density from 24.0 du/ac to 25.0 du/ac, requirements to increase the building height from 40 feet to 50 feet, and reduced the landscape setback along the Site's western boundary from 20 feet to 12 feet:

Density: Under the 2015 Hudson Commons PAD, the maximum permitted density for the MF-24 zoning district (applicable to approximately 16.6 acres) was 24.0 du/ac, which would have permitted a maximum number of units that could be developed of 398. Despite this entitlement, the 16.6± acre site at the northwest corner of Estrella Parkway and Harrison Street developed with 183 units, a density of 11.4 du/ac, leaving approximately 215 units that could be developed within the Hudson Commons PAD area. LCG's proposed development will contain approximately 284 units, which is 69 units more than the maximum permitted number of units (398) under the 2015 Hudson Commons PAD, which results in LGC seeking to amend the maximum permitted density from 24.0 du/ac to 25.0 du/ac.

To achieve this additional density, LCG has provided certain design elements in the proposed Amended PAD that must be met to achieve a density of 25.0 du/ac. Those elements are:

- Paved pedestrian pathways connecting the development to the adjacent retail uses and two pedestrian gates along Van Buren Street.

- A delineated walking path that will take residents around the interior and exterior (in some instances put them onto the public sidewalks) that will be used as an exercise track. It must be marked with signs indicating distances achieved.
- A large dog park with shade structures and dog wash area.
- Recreational open space of 406 square feet/unit (where 400 square feet/unit is required).
- Bicycle repair area.
- Public Plaza with large sculpture.

Building Height: The maximum building height under the 2015 Hudson Commons PAD was 40 feet. Under the proposed Amended PAD, LCG has provided a number of architectural elements and criteria that must be met to achieve a maximum building height of 50 feet. Those elements/criteria are:

- Elevations facing public right-of-way shall consist of no less than three major exterior materials (stucco, cementitious siding, paneling, stone, stone veneer, etc.). No material on these elevations shall exceed 40%.
- All 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.
- Building elevations shall include awnings or other shade structures over balconies and patios. The buildings facing public right-of-way shall have horizonal movement of at least 24" every 100 linear feet in order to provide shadow lines and elevation interest.
- Architectural theme 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.
- Rooflines shall have vertical movement with the use of different parapet heights, equipment screening heights, but be consistent with the modern aesthetic architecture.
- Thoughtful placement of the four-story buildings. Only three-story buildings face the single-family community to the west in order to lessen neighborhood impact.

Landscape Setback – Western Boundary: The 2015 Hudson Commons PAD required a 20-foot landscape setback along the western boundary for the multi-family development. The original 20-foot setback included a large north to south public walking path along the western edge of the property behind the back of a non-gated commercial development. The Statler at Estrella Parkway is a gated development, causing a "public" path to become a private one. LCG is requesting under the proposed Amended PAD to reduce the required landscape setback along the western boundary to 12 feet. The reduction of the setback is due to the internalizing the walking path. Relocating the walking path into The Statler at Estrella Parkway provides the residents of the community additional shaded, active open space that is more centrally located near the other amenities. The remaining 12 feet, together with the existing masonry wall and proposed landscaping and shade trees provide adequate horizontal, vertical, and visual separation from the single-family development to the west. Additionally, LCG is providing significant building setbacks from the western boundary; 150 feet for the northern building and 100 feet for the central and southern building.

Parking:

The Statler is providing 495 spaces where 519 are required. In connection with the proposed amendment to the Hudson Commons PAD, LCG is requesting a reduction in the parking required for 1-bedroom units. Specifically, LCG requests that 1-bedroom units be parked at a ratio of 1.35 spaces/unit rather than the 1.5 spaces/unit required by the City's Ordinance. The community will adhere to the City's requirement for 2 and 3-bedroom units. For additional details, see ***Exhibit 7, Parking Reduction Statement.*** Through their extensive experience with similar communities, LCG is familiar with the amount of parking that is realistically required and utilized. From their experience and the Parking Reduction Statement, LCG is confident that 495 spaces will provide adequate parking for this community while, importantly, maximizing open space opportunities. Further, not only has LCG focused on providing an ample amount of spaces, they have focused on location of spaces so that each unit has parking that is conveniently located and easily accessible.

IV. MISCELLANEOUS

Utilities.

Electric: APS
Water: City of Goodyear
Sewer: City of Goodyear
Gas: Southwest Gas Corp.

Luke Air Force Base. The Site is located near the edge of, but within the vicinity of a military airport, and is approximately 4-miles from the 65 Ldn noise contour line. Due to the distance and direction of the flight path, the property should not be adversely impacted by the operations of Luke Air Force Base.

School District. The Site is located in the Avondale Elementary School District No.44c(AESD). The district operates the Wildflower K-8, located at 325 S. Wildflower Drive, which is located in the adjacent Wildflower Ranch Community. The school is designed to accommodate a maximum 650 students and currently has 604 students enrolled in the 2021-2022 school year. The AESD also operates Centerra Mirage Elementary School, located at 15151 W. Centerra Drive, which is located in the adjacent Centerra Community approximately a ½-mile to the east. Its existing enrollment boundary is located just to the east of the Site. The school currently has 581 students enrolled in the 2013-2014 school year with a design capacity of 900 students.

The Site is also within the the Agua Fria Union High School District. The district operates Desert Edge High School, located at 15778 W. Yuma Road, which is located ¼-mile south of the Site. The school during the 2021-2022 has an enrollment of approximately 1,786 students, with a capacity of approximately 1,900 students.

Exhibit 1

LMF at Estrella Parkway



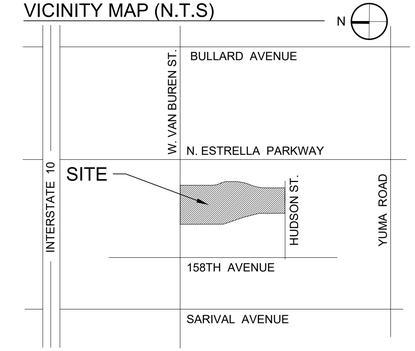
Exhibit 2

LEGAL DESCRIPTION

A PORTION OF THE FOLLOWING PROPERTY:
A PORTION OF LOT 1 OF MINOR LAND DIVISION RECORDED AT BOOK 1420 OF MAPS, PAGE 25, RECORDS OF
MARICOPA COUNTY, ARIZONA.
NOTE: EXACT LEGAL DESCRIPTION TO BE FURNISHED PRIOR TO CLOSE OF ESCROW.

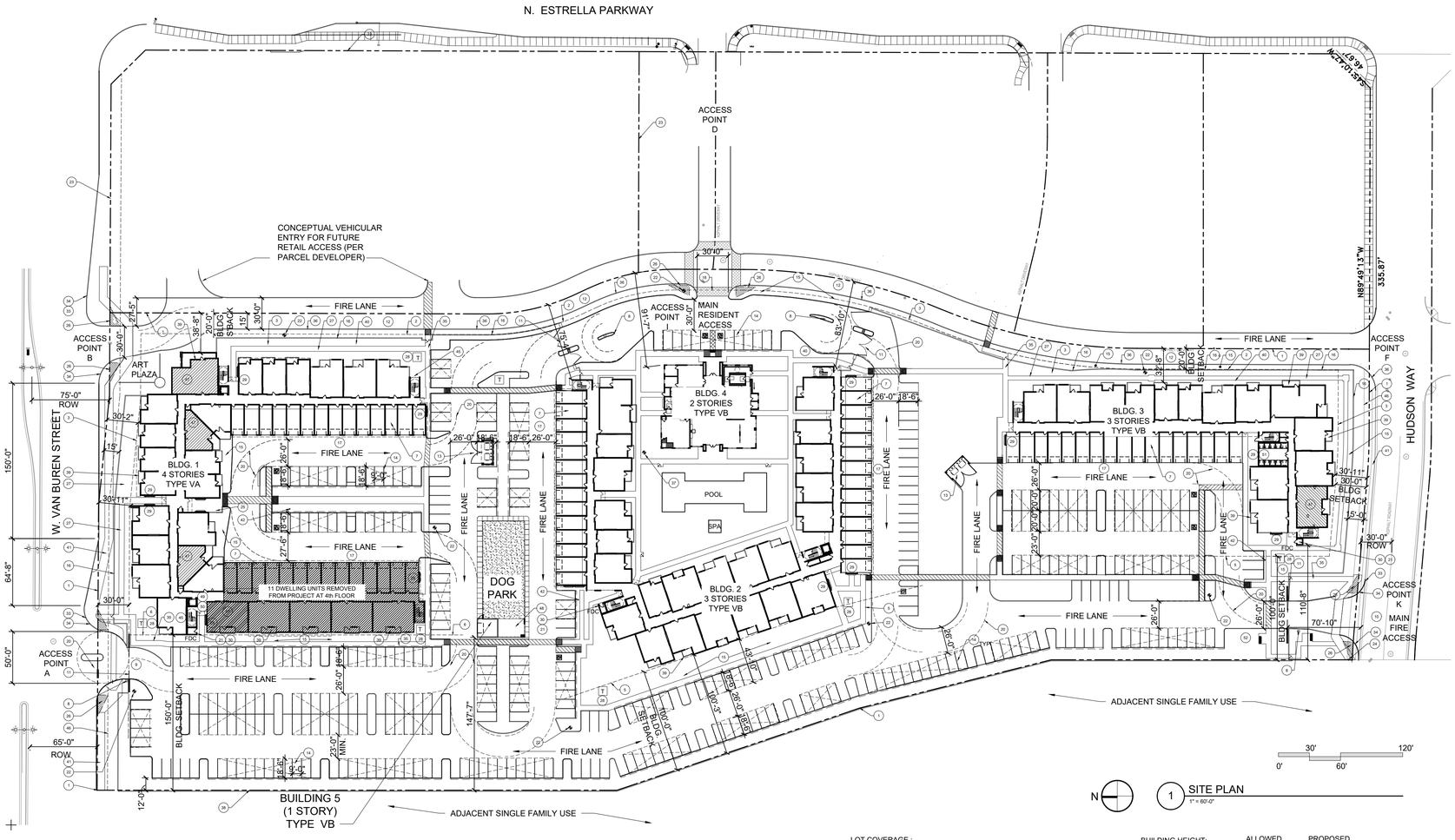
A portion of Lot 1 as shown on the Minor Land Division for Hudson Commons, recorded in Book 1420, Page 25, Maricopa County Records (MCR), lying within the northeast quarter of Section 7, Township 1 North, Range 1 West, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:
Commencing at the northeast corner of said Section 7, a brass cap in handhole, from which the north quarter corner of said Section 7, bears North 89°42'17" West, a distance of 2602.11 feet;
Thence along the north line of the northeast quarter of said Section, North 89°42'17" West, a distance of 789.59 feet;
Thence leaving said north line, South 00°17'43" West, a distance of 65.00 feet, to the northwest corner of said Lot 1 and the Point of Beginning;
Thence along the northerly line of said Lot 1, South 89°42'17" East, a distance of 274.79 feet;
Thence South 84°21'06" East, a distance of 107.19 feet;
Thence South 89°42'17" East, a distance of 79.52 feet;
Thence leaving said northerly line, South 00°10'47" West, a distance of 363.76 feet, to the beginning of a curve, concave northeasterly, having a radius of 200.00 feet;
Thence southeasterly along said curve, an arc length of 87.05 feet, through a central angle of 24°56'15";
Thence South 24°45'28" East, a distance of 15.21 feet, to the beginning of a curve, concave southwesterly, having a radius of 200.00 feet;
Thence southeasterly along said curve, an arc length of 87.05 feet, through a central angle of 24°56'15";
Thence South 00°10'47" West, a distance of 65.41 feet, to the beginning of a curve, concave northwesterly, having a radius of 500.00 feet;
Thence southwesterly along said curve, an arc length of 194.88 feet, through a central angle of 22°19'54", to the point of reverse curvature, having a radius of 500.00 feet;
Thence southwesterly along said curve, an arc length of 194.88 feet, through a central angle of 22°19'54";
Thence South 00°10'47" West, a distance of 224.26 feet, to the southerly line of said Lot 1;
Thence along said southerly line, North 89°49'13" West, a distance of 83.87 feet, to the beginning of a curve, concave northerly, having a radius of 470.00 feet;
Thence westerly along said curve, an arc length of 38.63 feet, through a central angle of 4°42'33";
Thence North 85°06'42" West, a distance of 150.46 feet, to the beginning of a curve, concave southerly, having a radius of 530.00 feet;
Thence westerly along said curve, an arc length of 27.64 feet, through a central of 2°59'19", to the westerly line of said Lot 1;
Thence leaving said southerly line, along said westerly line, North 00°00'15" East, a distance of 290.62 feet;
Thence North 14°08'46" West, a distance of 190.63 feet;
Thence North 18°42'18" West, a distance of 247.53 feet;
Thence North 00°00'15" East, a distance of 501.76 feet, to the Point of Beginning.

VICINITY MAP (N.T.S)



KEYNOTES

1. PROPERTY BOUNDARY DEFINING PORTION OF APN 500-10-852G
2. BUILDING SETBACK, SIDE YARD, 20' REQUIRED
3. BUILDING SETBACK, STREET, 20' REQUIRED
4. NOT USED
5. 100' BUILDING SETBACK, SIDE YARD ADJACENT TO SINGLE FAMILY (MAXIMUM 40' BUILDING HEIGHT AT THIS SETBACK)
6. 150' BUILDING SETBACK, SIDE YARD ADJACENT TO SINGLE FAMILY (MAXIMUM 50' BUILDING HEIGHT AT THIS SETBACK)
7. PRIVATE GARAGE PARKING
8. REQUIRED GATE KNOX BOX FOR FIRE DEPARTMENT (IFC 506.4)
9. TENANT EXIT ONLY GATE (26' CLEAR FOR FIRE APPARATUS)
10. MAIN EMERGENCY ENTRANCE FOR FIRE APPARATUS
11. GATE, SERVES AS FIRE LANE WHEN OPEN
12. 15' FROM PROPERTY LINE TO CURB
13. TRASH ENCLOSURE PER CITY STANDARD
14. STANDARD SURFACE PARKING STALL, 9'x20' or 9' x 18'-6" w/ 1'-6" OVERHANG
15. LANDSCAPED AREA, PART OF REQUIRED 20% OF NET SITE AREA
16. SITE WALL, 6' HIGH, SEE LANDSCAPE DRAWINGS
17. BUILDING SETBACK, 10' FROM FIRE LANE (WAIVED AT GARAGE PARKING)
18. PRIMARY TENANT AND VISITOR ENTRANCE (30')
19. MIN. FIRE LANE, 26' WIDE, BUILDING HEIGHT OVER 30' (IFC D105.2)
20. MIN FIRE APPARATUS TURNING RADIUS, INSIDE 28', OUTSIDE 48'
21. FIRE DEPARTMENT CONNECTION (FDC), LOCATED ON THE APPROACH SIDE OF THE BUILDING, WITHIN ONE HUNDRED (150) FEET IN LENGTH OF A FIRE HYDRANT, UNLESS AN APPROVED TURN AROUND OR A SECONDARY OUTLET IS PROVIDED. (IFC 912.2)
22. FIRE HYDRANT, HOSE LAY DISTANCE TO STRUCTURE EXTERIOR MAX 400 FT. & WITHIN 150 FT. MAX TO PROPOSED FDC LOCATIONS (IFC 507.5.1)
23. PROPERTY LINE (NOT PART OF PROPOSED SITE DESIGN)
24. EXISTING FIRE HYDRANT.
25. KNOX BOX (IFC 506.1 & IFC 506.4)
26. SITE VISIBILITY TRIANGLE PER CITY STANDARD
27. PRIVATE ON-SITE SIDEWALK PER CIVIL AND LANDSCAPE DRAWINGS
28. TRANSFORMER AND PAD LOCATION, (2) AS PER POWER COMPANY REQUIREMENTS, LANDSCAPE SCREENING, SEE LANDSCAPE DRAWINGS
29. SES & ELECTRIC METER LOCATIONS
30. FIRE RISER ROOM, FOR AUTOMATIC FIRE SPRINKLER SYSTEM (IFC 903.2)
31. FIRE LINE BACK FLOW PREVENTOR
32. LANDSCAPE SCREEN FOR UTILITY, SEE LANDSCAPE
33. PROVIDE ACCESSIBLE CURB AS PER DETAIL MAG STANDARD P1238-2
34. NEW CURB CUT PER GOODYEAR STANDARD, SEE CIVIL DWGS
35. PRIVATE ON-SITE SIDEWALK PER CIVIL & LANDSCAPE.
36. EXISTING CURBING NOT TO BE REMOVED (UNTIL DRIVEWAY AND RELATED DETAILS ARE APPROVED FOR BOTH PEDESTRIAN AND VEHICLE SAFETY)
37. CLASS 1, WET STANDPIPE CONNECTION (TO BE PART OF BUILDING SPRINKLER SYSTEM WHERE REQUIRED PER IFC 503.1.1)
38. EXISTING SITE WALL ALONG WEST PROPERTY LINE (VERIFY LOCATION)
39. 60 SQ. FT. (MIN.) BALCONY AT ALL UNITS
40. FIRE AERIAL ACCESS SETBACK FROM CURB (15'-30')
41. EXISTING PUBLIC SIDEWALK
42. EV CHARGER STATION (2 VEHICLES, SIDE BY SIDE)
43. CAMPUS MAP AT PRIMARY FIRE APPARATUS ENTRY (IFC 505.1)
44. BUILDING ADDRESS LOCATION (IFC 505.1)
45. LADDER ACCESS TO TOP OF ROOF (IFC 504.3)
46. 10' PUBLIC UTILITY EASEMENT ADJACENT TO PROPERTY LINE (PUE)
47. HATCHED UNIT, INDICATES TYPE A ACCESSIBLE
48. SHADED OUTDOOR SPACE, PART OF BUILDING 5 STRUCTURE
49. SECURITY GATE AT NON CONDITIONED BUILDING CORRIDOR
50. SECURITY GATE AT STAIR
51. BIKE REPAIR AMENITY (LEVEL 1), STORAGE (LEVELS 2 AND 3)
52. LOCATION FOR BENCH AND DOGGY POT AMENITIES



1 SITE PLAN
1" = 60'-0"

PROJECT DATA

PROJECT ADDRESS
SOUTHWEST OF ESTRELLA PARKWAY AND VAN BUREN INTERSECTION
GOODYEAR, AZ

PROJECT DESCRIPTION
THIS PROJECT IS A MULTIFAMILY FOR RENT PROJECT CONSISTING OF 2 THREE STORY APARTMENT BUILDINGS, 1 APARTMENT BUILDING PART-FOUR -STORY AND PART-THREE-STORY, 1 TWO STORY AMENITY BUILDING, AND 1 ONE STORY MAINTENANCE BUILDING. RECREATIONAL OPEN SPACE INCLUDES POOL AREA, EXERCISE PATH, AND DOG PARK.

ZONING:
EXISTING PAD
PROPOSED MF24 (MULTI-FAMILY)

APN:
500-10-852G

DENSITY CALCULATION:
ALLOWABLE 26 UNITS/ACRE

PROPOSED 25 UNITS/ACRE
284 UNITS (11.37 NET ACRES x 25 = 284.25)

OCCUPANCY:
MIXED - SEPARATED OCCUPANCIES (IBC 508.4)
R-2 APARTMENTS (IBC 310) - FLOORS 1- 4
U PRIVATE PARKING GARAGE (IBC 311) FLOORS 1

CONSTRUCTION TYPE:
TYPE VB

SPRINKLERS:
YES, NFPA 13R

EMERGENCY LIGHTING:
YES

MANUAL FIRE ALARM SYSTEM:
YES, IFC 907.3.2

APPLICABLE CODES AND STANDARDS
2018 INTERNATIONAL BUILDING CODE
2018 INTERNATIONAL RESIDENTIAL CODE
2010 ADA STANDARDS FOR ACCESSIBLE DESIGN
2018 INTERNATIONAL FIRE CODE w/ PHOENIX AMMENDMENTS
2018 INTERNATIONAL ENERGY CONSERVATION CODE
2018 INTERNATIONAL MECHANICAL CODE
2018 INTERNATIONAL CODE COUNCIL PERFORMANCE CODE
2018 PHOENIX BUILDING CONSTRUCTION CODE-ADMINISTRATIVE PROVISIONS
2018 INTERNATIONAL FUEL GAS CODE (IFGC)
2018 INTERNATIONAL PLUMBING CODE
2009 ANSI ICC A117.1
2017 NATIONAL ELECTRICAL CODE / NFPA-70

NET SITE AREA (APN 500-10--852G)
495,466 SF (11.37 ACRES)

RECREATIONAL OPEN SPACE:

REQUIRED	113,600 SF (284 UNITS x 400 SF/UNIT)	
PROPOSED	115,338 SF	
	LANDSCAPED OPEN SPACE, WALKING PATHS	101,677 SF
	AMENITY BUILDING 4 INTERIORS	8,802 SF
	AMENITY BUILDING ROOF TOP	999 SF
	BIKE REPAIR, BUILDING 3 INTERIORS	635 SF
	BUILDING LOBBIES (GRADE LEVEL)	1,225 SF
	BUILDING LOBBIES (UPPER LEVELS)	2000 SF
	TOTAL	**115,338 SF**

PRIVATE OPEN SPACE
REQUIRED 17,700 SF (295 UNITS x 60 SF/UNIT)
PROPOSED 23,446 SF (TOTAL PRIVATE PATIOS / BALCONIES)

AMENITIES PROVIDED:
1. AMENITY BUILDING WITH VIEW DECK, POOL AREA, BBQ & PICNIC AREAS
2. DOG PARK, DOG WASH, SHADED DOG PARK PATIO, DOG POT STATIONS
3. WALKING PATHS THROUGHOUT THE SITE WITH THROUGH-BUILDINGS LINKS
4. BICYCLE REPAIR SPACE IN BUILDING 3

BUILDING SETBACKS:

	REQUIRED	PROPOSED
FRONT SETBACK (NORTH STREET)		
BUILDING 1	30'-0"	30'-2"
REAR SETBACK (SOUTH STREET)		
BUILDING 3	30'-0"	30'-11"
SIDE YARD SETBACK (EAST RETAIL)		
BUILDING 1	20'-0"	38'-8"
BUILDING 2	20'-0"	75'-4"
BUILDING 3	20'-0"	32'-8"
BUILDING 4	20'-0"	83'-10"
SIDE YARD SETBACK (WEST SINGLE FAMILY)		
BUILDING 1 (MAX BUILDING HEIGHT 50')	150'-0"	150'- 0" *
BUILDING 2 (MAX BUILDING HEIGHT 40')	100'-0"	100'- 3" *
BUILDING 3 (MAX BUILDING HEIGHT 40')	100'-0"	110'-8" *
BUILDING 5 (MAX BUILDING HEIGHT 30')	50'-0"	147'-7" *

*(ADJACENT TO SINGLE FAMILY ZONING, MIN 50' SETBACK, INCREASES 5' FOR EVERY 1' OVER 30' BLDG HT)

PARKING:

REQUIRED:		PROPOSED PARKING :
(156) ONE BEDROOM x 1.5 PER	234 SPACES	x 1.35 SPACES = 211
(118) TWO BEDROOM x 2 PER	236 SPACES	x 2 SPACES = 236
(10) THREE BEDROOM x 2 PER	20 SPACES	x 2 SPACES = 20
GUEST (284 UNITS/10)	28.4 SPACES	x 1 SPACES = 28
FUTURE		
STAFF		
TOTAL	**519 SPACES**	**495 SPACES** (1.74 SPACES/UNIT)

LOT COVERAGE :
MAX. ALLOWED = 50% OF NET SF
495,466 NET SF x .5 = 274,733 SF MAX

PROPOSED: **35.4%** OF NET SF

CARPORT PARKING	51,120 SF (180 SF X 284 UNITS)
BUILDING 1	45,667 SF FOOTPRINT
BUILDING 2	43,288 SF FOOTPRINT
BUILDING 3	27,127 SF FOOTPRINT
BUILDING 4	7,223 SF FOOTPRINT
BUILDING 5	720 SF FOOTPRINT
TOTAL	**175,145 SF**

(175,145 SF/495,466 SF) x 100 = 35.4%)

BUILDING AREAS:

APARTMENT BUILDING 1	APARTMENT BUILDING 2
1ST FLR GROSS 43,434 SF	1ST FLR GROSS 41,503 SF
2ND FLR GROSS 42,388 SF	2ND FLR GROSS 40,376 SF
3RD FLR GROSS 42,388 SF	3RD FLR GROSS 40,376 SF
4TH FLR GROSS 29,724 SF	**TOTAL 122,255 SF**
TOTAL 157,843 SF	AMENITY BUILDING 4
APARTMENT BUILDING 3	1ST FLR GROSS 6,996 SF
1ST FLR GROSS 27,127 SF	2ND FLR GROSS 1,806 SF
2ND FLR GROSS 26,121 SF	**TOTAL 8,802 SF**
3RD FLR GROSS 26,121 SF	MAINTENANCE BUILDING 5
TOTAL 79,369 SF	1ST FLR GROSS 720 SF
	TOTAL 720 SF

PARKING:
PROVIDED:
GARAGE 73 SPACES
SURFACE PARKING (284 CARPORT, 138 OTHER) 422 SPACES
TOTAL 495 SPACES

	REQUIRED	PROVIDED
ACCESSIBLE PARKING SPACES PER IBC 2% OF 519 = 10.38	11	11
COVERED PARKING SPACES	REQUIRED	PROVIDED
1 COVERED PARKING PER UNIT	284	357 (GARAGE 73, CARPORT 284)

BUILDING HEIGHT:

	ALLOWED	PROPOSED
APARTMENT BUILDING 1	40'-0"	50'-0" (MAX) (COMPLIANT WITH 150' SETBACK REQUIRED WITH THIS HEIGHT ADJACENT TO WEST SINGLE FAMILY USE)
APARTMENT BUILDING 2	40'-0"	40'-0"
APARTMENT BUILDING 3	40'-0"	40'-0"
AMENITY BUILDING 4	40'-0"	30'-0"
MAINTENANCE BUILDING 5	30'-0"	16'-0"

UNIT MIX:

UNIT TYPE	COUNT
1 BEDROOM (54%+-)	156
2 BEDROOM (42%+-)	118
3 BEDROOM (4%+-)	10
TOTAL (100%)	**284**

UNIT MIX BREAKDOWN

UNIT TYPE	SQ. FT.	BALC. SQ. FT.	COUNT	NRSF
A1.0	744	74	50	37,200
A2.0	745	87	50	37,250
A3.0	807	113	16	12,912
A4.0	927	81	40	37,080
B1.0	1,059	60	62	65,658
B2.0	1,137	85	38	43,206
B3.0	1,174	64	9	10,566
B3.1	1,179	64	9	10,611
C1.0	1,393	224	4	5,572
C2.0	1,575	225	6	9,450
		TOTAL	**284**	**269,505 ***

*NOTE: NRSF DOES NOT INCLUDE PRIVATE BALCONY AND PATIO AREAS

GENERAL NOTES

1. PROPERTY LINE, DEFINING PORTION APN 500-10-852G
2. ANY GATES INSTALLED ACROSS A FIRE APPARATUS ACCESS ROAD WILL REQUIRE A SEPARATE SUBMITTAL AND PERMIT (IFC 503.6)
3. KNOX BOX REQUIRED AT POOL GATES (IFC 506.4)
4. FOUR (4) STORY BUILDINGS WILL BE REQUIRED TO TO BE EQUIPPED WITH INTERIOR, CLASS 1, STANDPIPE SYSTEM ON EACH FLOOR
5. 7 FOOT CLEAR SPACE REQUIRED AROUND ALL FIRE HYDRANTS, SEE LANDSCAPE PLANS
6. FIRE EMERGENCY GUIDES, (IFC 403.10.2.1 THROUGH 403.10.2.2.3)
7. THE FIRE DEPARTMENT DOES NOT ALLOW SPEED BUMPS OR ANY OBSTRUCTIONS THAT MAY IMPEDE AN EMERGENCY VEHICLE RESPONSE ON A FIRE DEPARTMENT ACCESS ROADWAY (IFC 503.4.1)
8. (IFC 504.3) ROOF ACCESS FOR FOUR (4) STORY BUILDINGS
9. (IFC 903.4) FIRE ALARM SYSTEM FOR SPRINKLER SYSTEM
10. (IFC 907.2.9.1) MANUAL FIRE ALARM SYSTEM
11. (IFC 915.1.5) CARBON MONOXIDE DETECTION
12. LOCATIONS OF SES & ELECTRIC METERS TO BE DETERMINED
13. DIMENSIONS SHOWN ARE FOR GENERAL REFERENCE AND NOT TO BE USED FOR CONSTRUCTION LAYOUT. OBTAIN LAYOUT DIMENSIONS FROM CIVIL ENGINEERING

PROJECT TEAM

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PRELIMINARY
NOT FOR CONSTRUCTION

THE STATLER AT ESTRELLA PARKWAY

SW OF ESTRELLA PARKWAY AND VAN BUREN
GOODYEAR, AZ 85338

ISSUE

DATE	REV	FOR
08.09.2023		REZONE SUBMITTAL

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BK
Job Number
2152
Drawing
SITE PLAN
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A1.00

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Exhibit 3


STAPLES

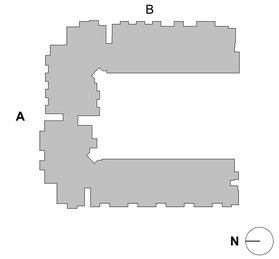

STATLER

Exhibit 4

MATERIAL KEY

1	STUCCO, PAINTED, OFF-WHITE
2	STUCCO, PAINTED, LIGHT BROWN
3	SIMULATED STAINED WOOD SIDING, PAINTED, BROWN
4	ARCHITECTURAL FEATURE, CEMENTITIOUS PANELS, PAINTEDG GLOSS, COPPER COLOR
5	ARCHITECTURAL FEATURE, CEMENTITIOUS PANELS, PAINTED GLOSS, DARK BLUE COLOR
6	STONE VENEER, MODULAR STONE, OFF-WHITE COLOR
7	MASONRY BLOCK VENEER WITH HORIZONTAL JOINTS RAKED, PAINTED, MID-TONE GRAY
8	BALCONY RAILING, PAINTED GLOSS, CHARCOAL
9	EXTERIOR CORRIDORS AND STAIRS MESH, PAINTED GLOSS, CHARCOAL
10	WINDOW AND DOOR FRAMING, PRE MANUFACTURED COLOR, BLACK
11	BALCONY, CEMENTITIOUS FASCIA, PAINTED, CHARCOAL
12	EAVE, CEMENTITIOUS FASCIA, PAINTED, CHARCOAL
13	ARTICULATED TOP OF PARAPET (HAT), CEMENTITIOUS FASCIA, PAINTED, CHARCOAL
14	BALCONY RAILING, GLASS

KEY PLAN





ELEVATION B - EAST 2
3/32" = 1'-0"



NORTH ELEVATION A - VAN BUREN STREET 1
3/32" = 1'-0"

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CONSTRUCTION

THE STATLER AT ESTRELLA PARKWAY

SW OF ESTRELLA PARKWAY AND VAN BUREN
GOODYEAR, AZ 85338

ISSUE

DATE	REV	FOR
08.09.23		REZONE SUBMITTAL

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Job Number
2152
Drawing
BUILDING 1 - EXTERIOR ELEVATIONS
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A1.5

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Exhibit 5

The Statler
at Estrella Park
Conceptual Landscape Plan

Trees

Common	Botanical Name	Size
Mulga	*Acacia aneura*	24″ Box
Desert Willow	*Chilopsis linearis*	24″ Box
Desert Ironwood	*Olneya tesota*	24″ Box
Date Palm	*Phoenix dactylifera*	18′ Brown Trunk
Red Push Chinese Pistache	*Pistacia chinensis 'Red Push'*	24″ Box
Thornless Chilean Mesquite	*Prosopis chilensis 'Thornless'*	24″ Box
Southern Live Oak	*Quercus virginiana*	24″ Box
Texas Mountain Laurel	*Sophora secundiflora*	15 Gal

Shrubs

Common	Botanical Name	Size
Green Hopseed Bush	*Dodonaea viscosa 'Green'*	15 Gal
Winter Blaze Emu Bush	*Eremophila glabra carnosa 'Winter Blaze' ™*	5 Gal
Blue Bells Emu Bush	*Eremophila hygrophana 'Blue Bells'*	5 Gal
Emu Bush	*Eremophila prostrata 'Outback Sunrise'*	5 Gal
Giant Hesperaloe	*Hesperaloe funifera*	5 Gal
Brakelights Red Yucca	*Hesperaloe parviflora 'Perpa' ™*	5 Gal
Purple Trailing Lantana	*Lantana montevidensis*	5 Gal
New Gold Lantana	*Lantana x 'New Gold'*	5 Gal
Compact Texas Ranger	*Leucophyllum frutescens 'Compacta'*	5 Gal
Lynn's Legacy Langman's Sage	*Leucophyllum langmaniae 'Lynn's Legacy'*	5 Gal
Rio Bravo Langman's Sage	*Leucophyllum langmaniae 'Rio Bravo' ™*	5 Gal
Pink Muhly Grass	*Muhlenbergia capillaris*	5 Gal
Lindheimer's Muhly	*Muhlenbergia lindheimeri*	5 Gal
Purple Muhly	*Muhlenbergia rigida 'Nashville' ™*	5 Gal
Slipper	*Pedilanthus macrocarpus*	5 Gal
Yellow Bells	*Tecoma stans*	15 Gal
Germander	*Teucrium chamaedrys*	5 Gal
Prostrate Germander	*Teucrium chamaedrys 'Prostratum'*	5 Gal
Arizona Rosewood	*Vauquelinia californica*	15 Gal

Groundcover

Common	Botanical Name	Size
Bermuda Grass	*Cynodon dactylon*	Sod

Provided Open Space Area (Included LS Setbacks)	138,498 SF

S Estrella Parkway

W Van Buren Street

W Hudson Way

Pedestrian Gate

Proposed Wall (See Wall Plan for Details

Vehicular Gate

Pedestrian Gate

Public Art Plaza

Leasing Entrance

Secondary Amenity

Amenity

Pedestrian Gate

Proposed Wall (See Wall Plan for Details

Dog Park

Proposed Fence (See Wall Plan for Details

Pedestrian Gate

Proposed Wall (See Wall Plan for Details

Vehicular Gate

Proposed Wall (See Wall Plan for Details

Existing Wall

Vehicular Gate

0′ 90′

9 August 2023

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Exhibit 6

The Statler
at Estrella Park

Recreation Open Space Areas

S Estrella Parkway

W Van Buren Street

W Hudson Way

LEGEND		
	Landscaped Open Space	96,927 SF
	Walking Paths	4,750SF
	Interior Recreational Open Space	
	Clubhouse	8,802 SF
	Clubhouse Roof Deck	999 SF
	Building 3 Bike Room	635 SF
	Building Ground Floor Lobbies	1,225 SF
	Building Lobbies Upper Levels	2,000 SF
	Required Landscape Recreation Open Space	113,600 SF
	Provided Landscaped Recreation Open Space	115,338 SF

Pedestrian Access To Community Walks And Trails. Where Pathways Return To Building Corridors, Only The Walkway Area Is Included In The Calculation

Secondary Amenity Space: Passive Seating, Outdoor Games, Shade Element, Canopy Trees, Landscape Lighting, Or Approved Equal

Decomposed Granite Perimeter Trail For Resident Use

Bike Repair Shop For Resident Storage And Equipment Repair

Common Gathering Space Between Buildings Or Mid Block Of Building. Programing Shall Include, Seating, Table, Potted Planting, Wall Art, Or Approved Equal

Shaded Pedestrian Access To Dog Park(Only Sidewalk Area Is Included, Not Adjacent Landscape Area)

Accessible Walkways And Paths To Amenity Areas (Only Sidewalk Area Has Been Counted Toward Calculations)

Doggie Trash Receptacles Along The Path

Passive Shaded Seating With Doggie Pot

Shaded Pathway With Bench Seating And Dog Trash Station

Resident Dog Park

Shaded Pedestrian Walkway To Secondary Amenity Space. Bench Seating And Doggie Trash Receptacles Along The Path

Passive Seating Node With Benches, Trash Cans And Decomposed Granite Paving

Common Gathering Space Between Buildings Or Mid Block Of Building. Programing Shall Include, Seating, Table, Potted Planting, Wall Art, Or Approved Equals

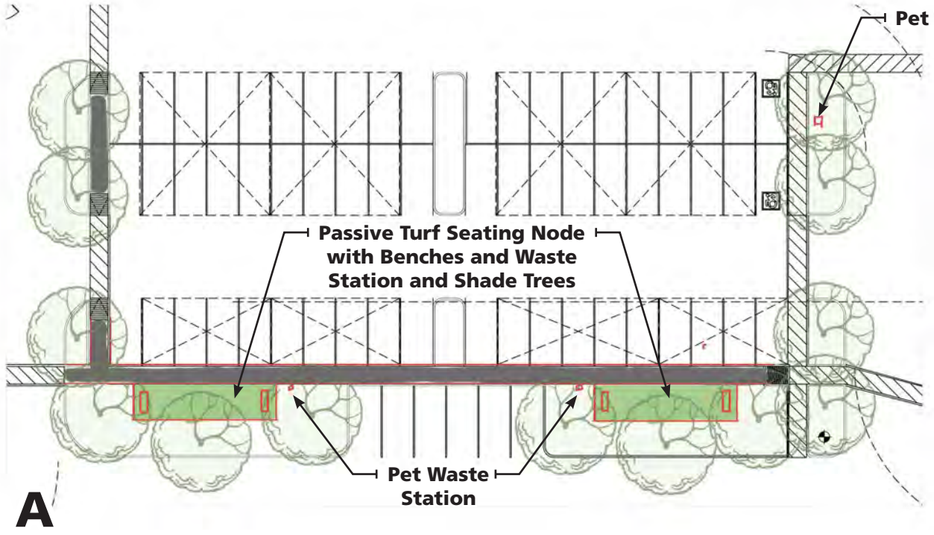
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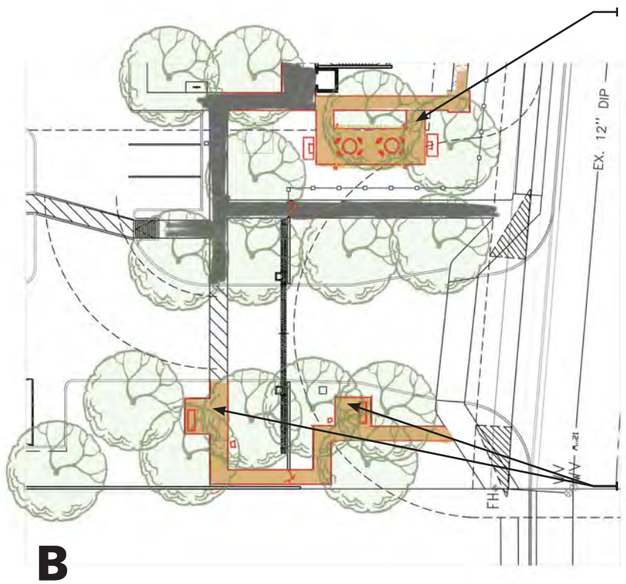
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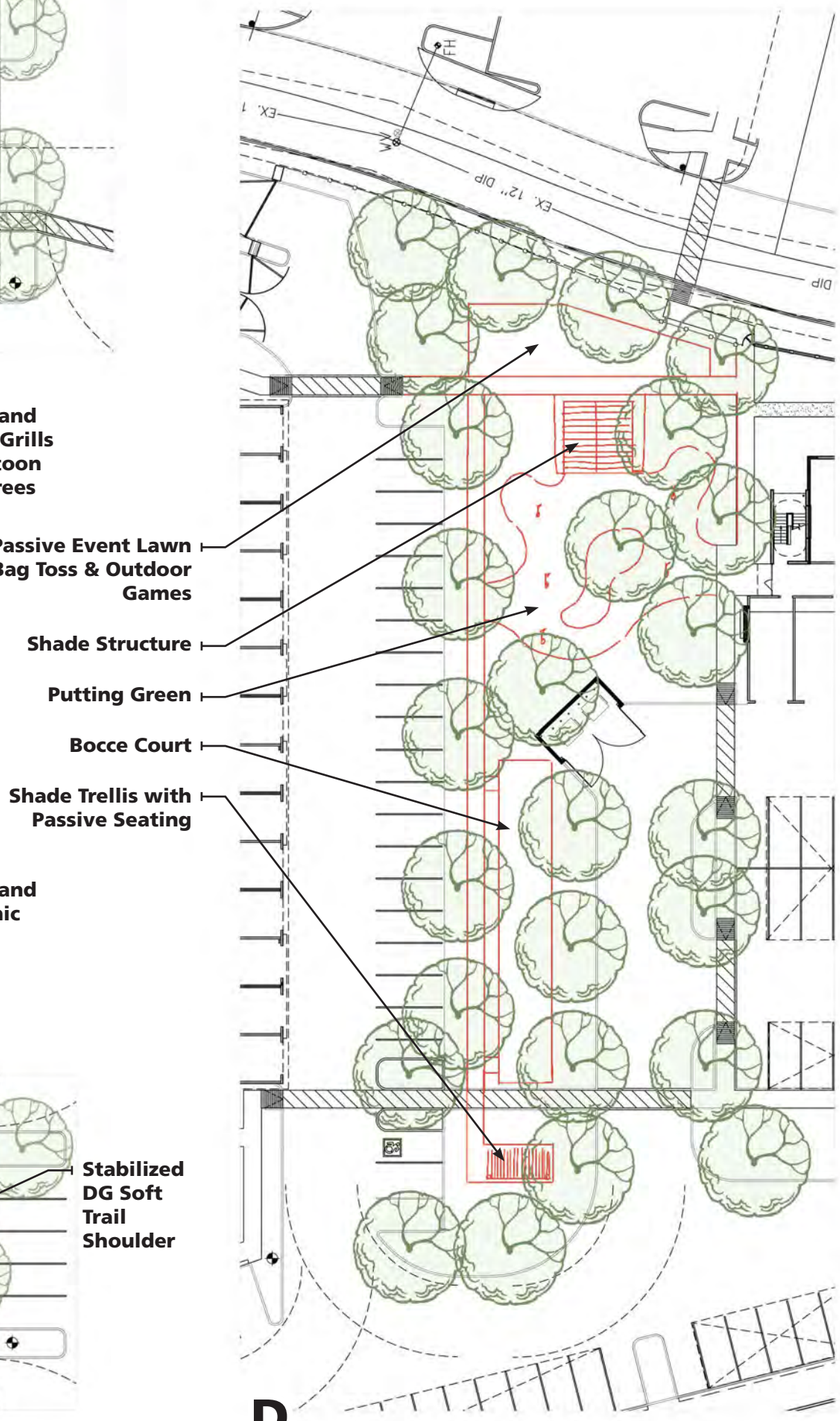
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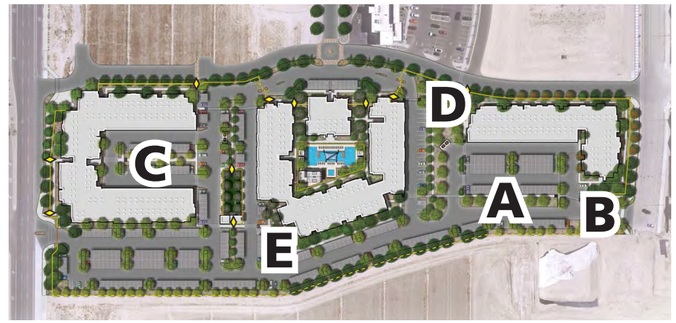
The Statler
at Estrella Park

Amenities









Location Map



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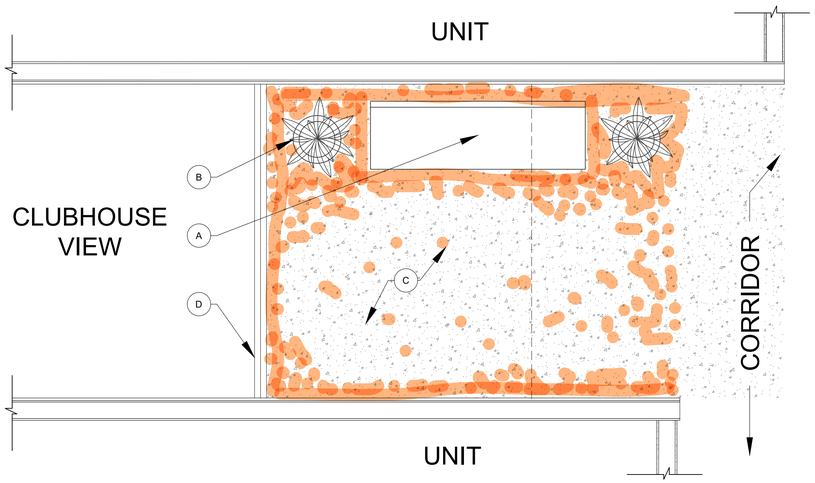
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KEY NOTES: (#)

A. BENCH
B. PLANTS
C. SPECIAL FLOORING FINISH
D. RAILING
E. WALL ART

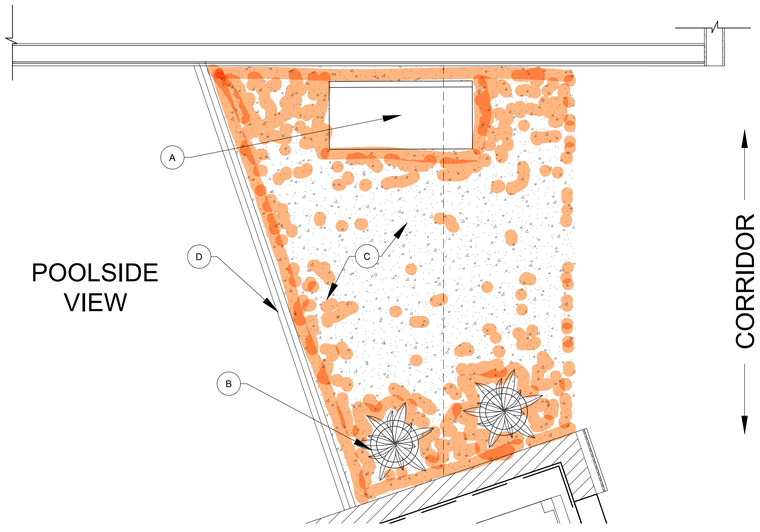
KEY PLAN





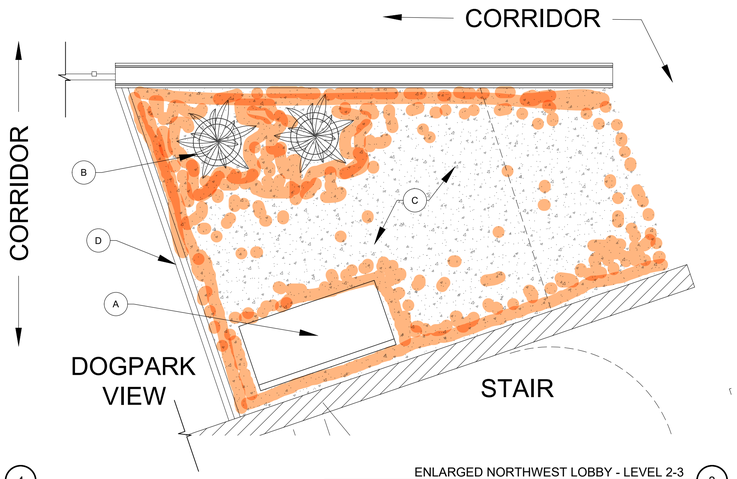
ENLARGED SOUTH POOLSIDE LOBBY - LEVEL 2-3 (5)
1/2" = 1'-0"

MIN: 100 SF



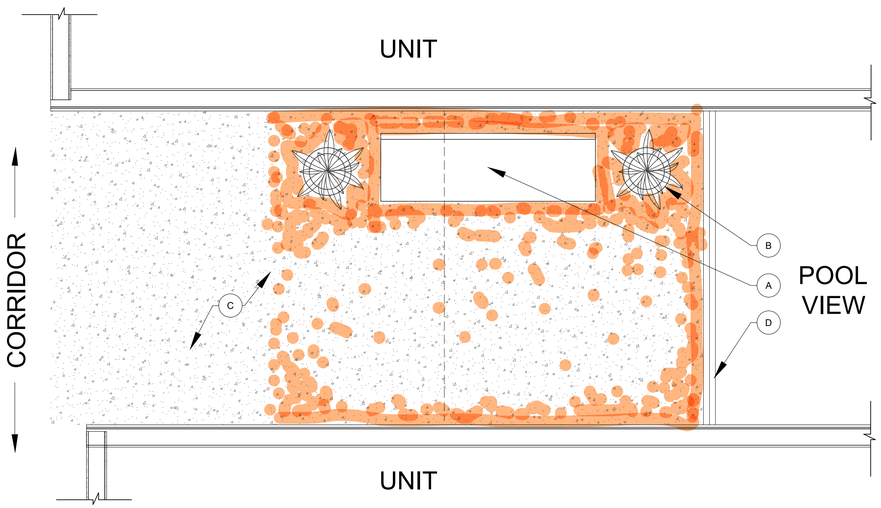
ENLARGED SOUTHWEST POOLSIDE LOBBY - LEVEL 2-3 (4)
1/2" = 1'-0"

MIN: 100 SF



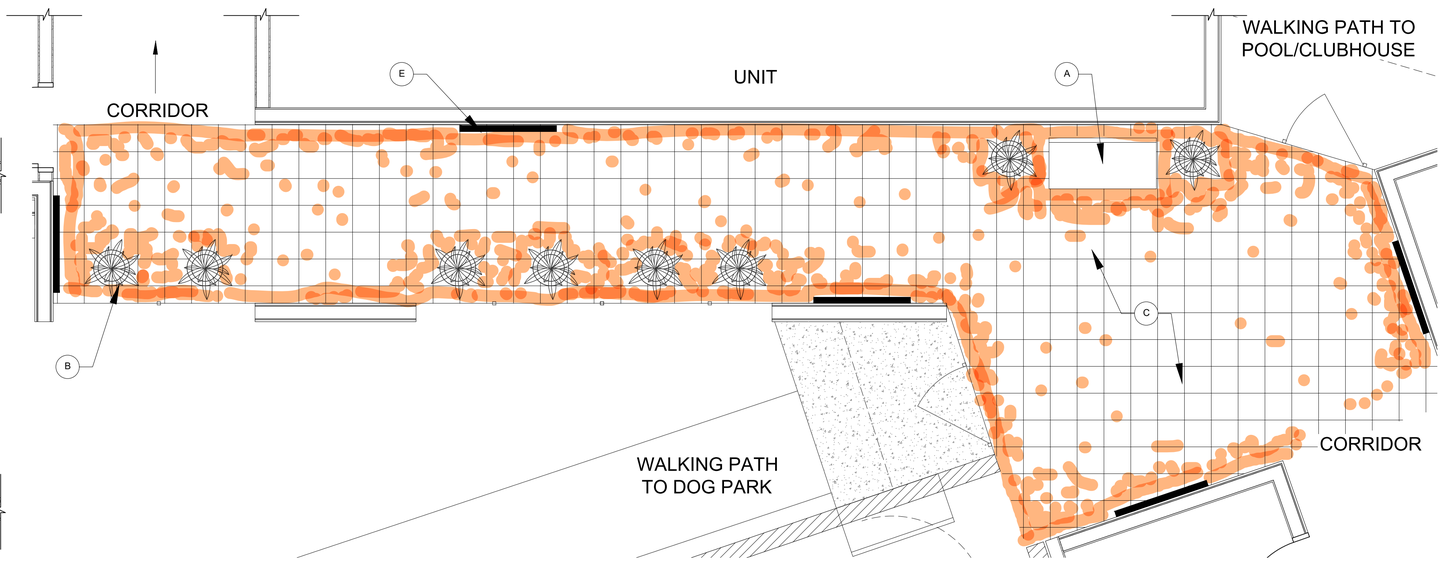
ENLARGED NORTHWEST LOBBY - LEVEL 2-3 (3)
1/2" = 1'-0"

MIN: 100 SF



ENLARGED NORTH POOLSIDE LOBBY - LEVEL 2-3 (2)
1/2" = 1'-0"

MIN: 100 SF



ENLARGED NORTHWEST LOBBY (1)
3/8" = 1'-0"

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PRELIMINARY NOT FOR CONSTRUCTION

THE STATLER AT ESTRELLA PARKWAY

WEST VAN BUREN STREET & NORTH ESTRELLA PARKWAY
GOODYEAR, AZ 85338

ISSUE

DATE	REV	FOR
08.09.2023		REZONE SUBMITTAL

Drawn
BK, JB, HM
Checked
BK
Job Number
2152
Drawing
BUILDING 2 - INTERIOR RECREATIONAL SPACES
Sheet
XX

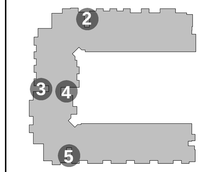
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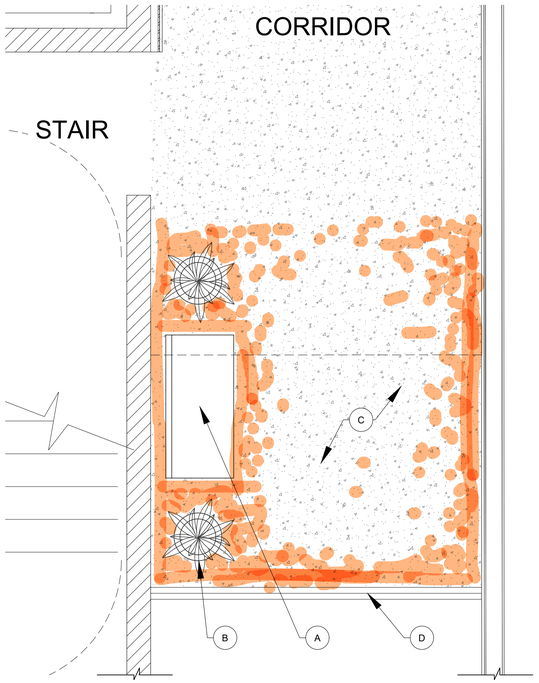
X:\2152 LEON CAPITAL GROUP GOODYEAR\2152 DRAWING\AADT PROJECT HERE\LEON CAPITAL GROUP - GOODYEAR\SHEETS\XX ENLARGED PLANS - BLDG 2.DWG Plotted by: JOEL BLANCO on 8/9/2023 2:15:14 PM

KEY NOTES: (#)

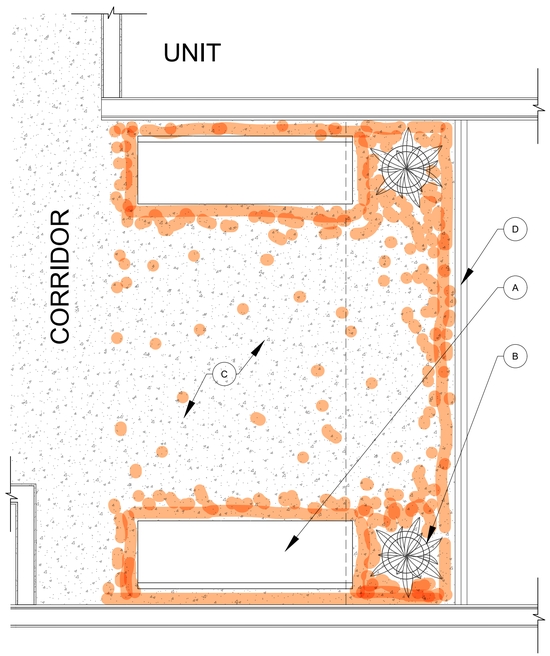
A. BENCH
B. PLANTS
C. SPECIAL FLOORING FINISH
D. RAILING
E. WALL ART

KEY PLAN

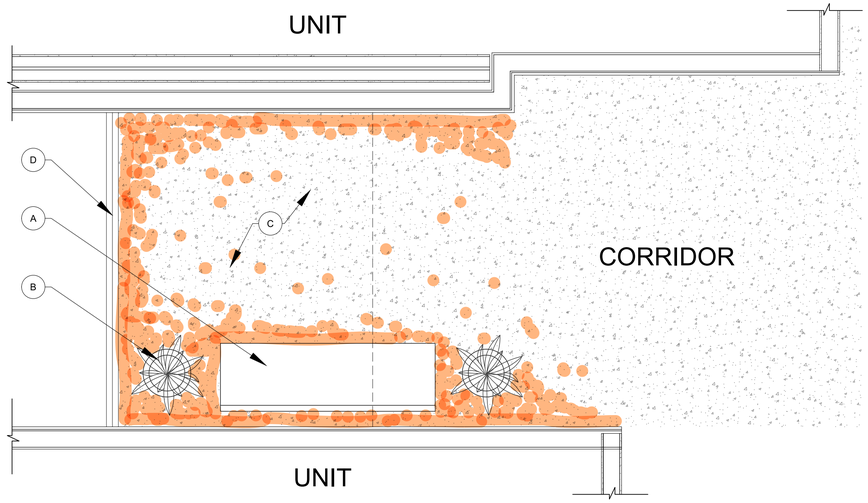




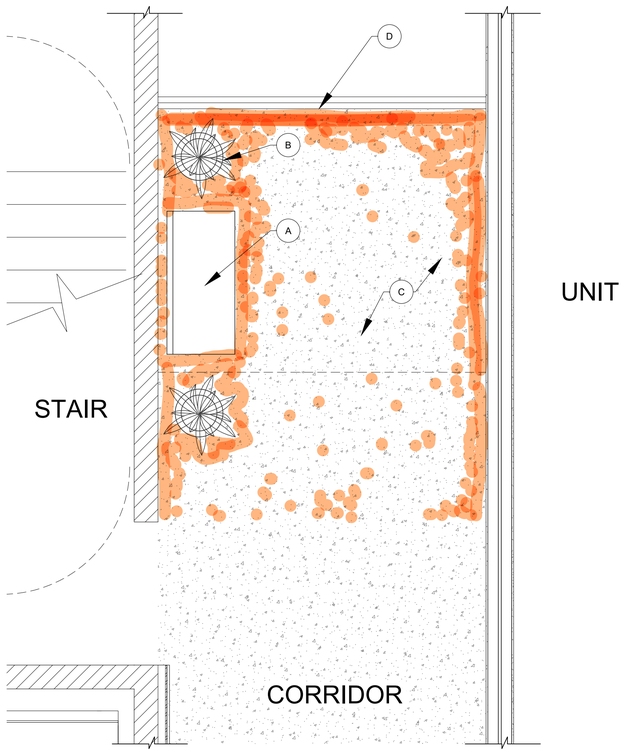
ENLARGED UPPER WEST LOBBY - LEVEL 2,3,4 (5)
1/2" = 1'-0"
MIN: 100 SF



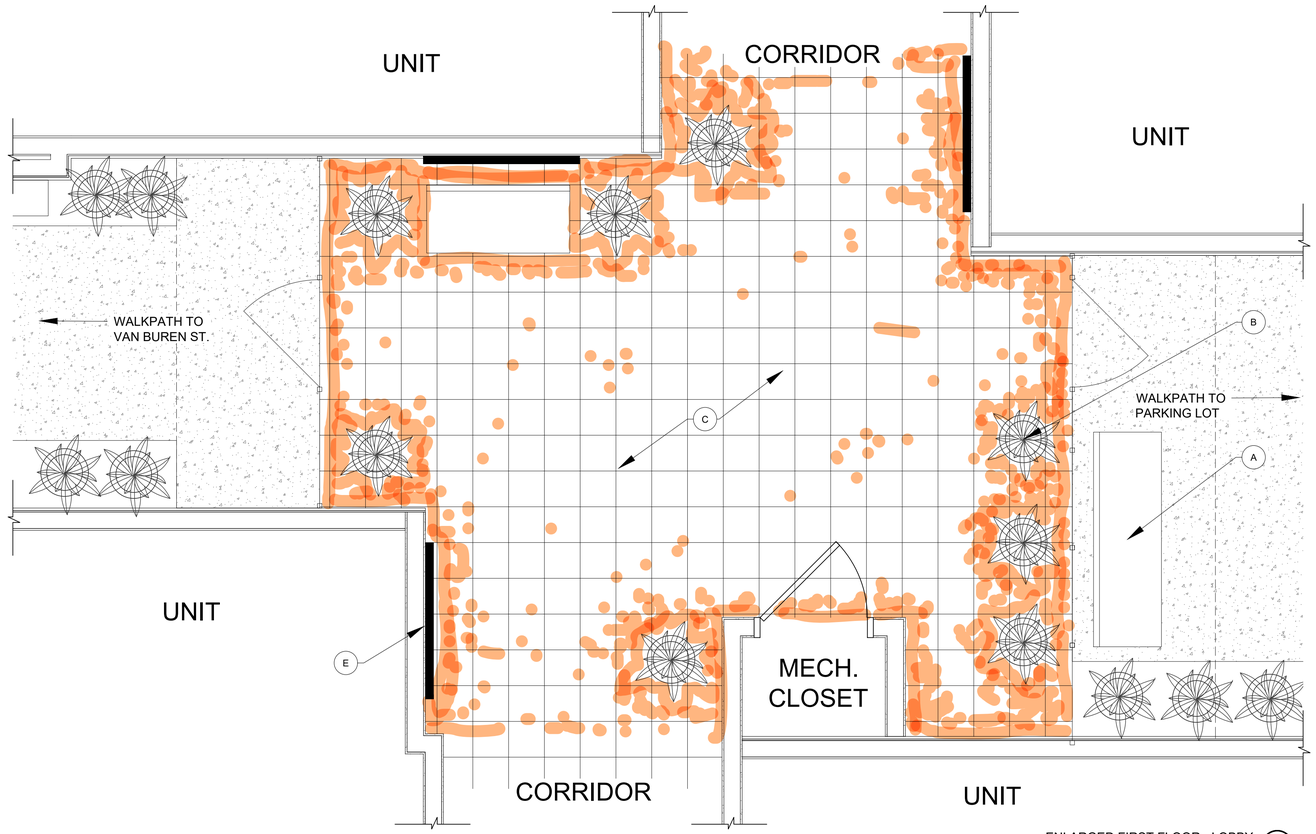
ENLARGED UPPER SOUTH LOBBY - LEVEL 2,3,4 (4)
1/2" = 1'-0"
MIN: 100 SF



ENLARGED UPPER NORTH LOBBY - LEVEL 2,3,4 (3)
1/2" = 1'-0"
MIN: 100 SF



ENLARGED UPPER EAST LOBBY - LEVEL 2,3,4 (2)
1/2" = 1'-0"
MIN: 100 SF



ENLARGED FIRST FLOOR - LOBBY (1)
1/2" = 1'-0"

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GOODYEAR, AZ 85338

ISSUE

DATE	REV	FOR
08.09.2023		REZONE SUBMITTAL

Drawn
BK. JB, HM
Checked
BK
Job Number
2152
Drawing
BUILDING 1 - INTERIOR RECREATIONAL SPACES
Sheet
XX

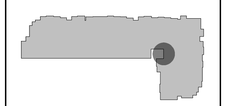
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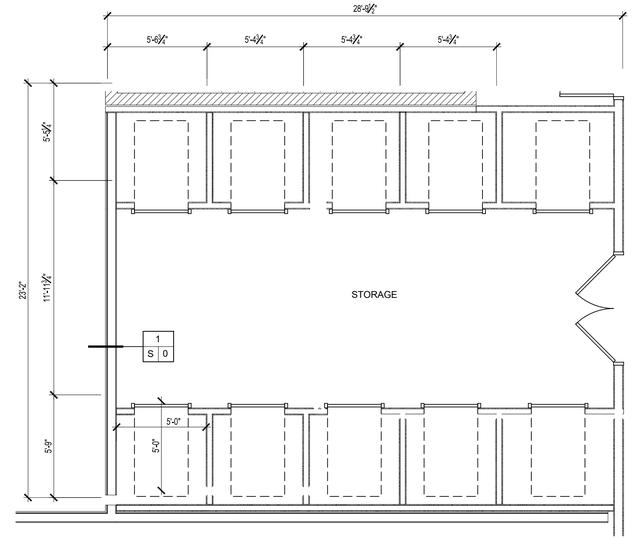
X:\2152 LEON CAPITAL GROUP GOODYEAR\2152 DRAWING\ADAPT PROJECT HERE\LEON CAPITAL GROUP - GOODYEAR\SHEETS\XX ENLARGED PLANS.DWG Plotted by: JOEL BLANCO on 8/9/2023 1:08:43 PM

KEY NOTES: (#)

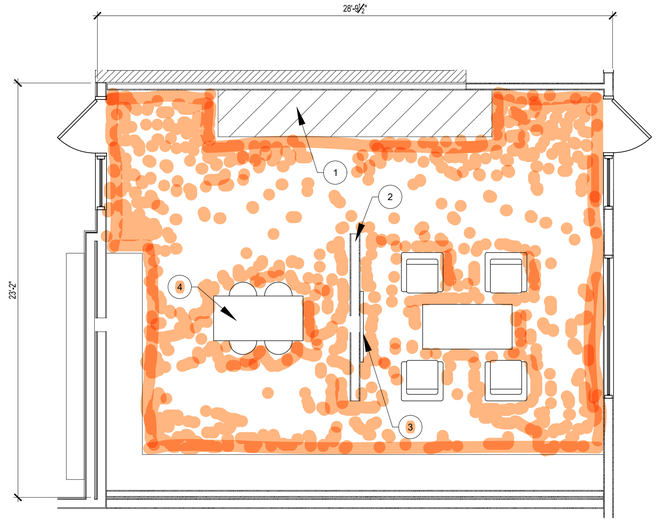
1. BIKE RACKS
2. PARTITION
3. TV
4. MAKER SURFACES

KEY PLAN





STORAGE UNITS - LEVEL 2 & 3 (2)
1/4" = 1'-0"



BIKE REPAIR LOUNGE - GROUND LEVEL (1)
1/4" = 1'-0"

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ISSUE

DATE	REV	FOR
08.09.2023		REZONE SUBMITTAL

Drawn
BK, JB
Checked
BK
Job Number
2152
Drawing
BUILDING 3 - ENLARGED PLAN

A3.11

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X:\2152 LEON CAPITAL GROUP GOODYEAR\2152 DRAWINGS\ADOT PROJECT HERE\LEON CAPITAL GROUP - GOODYEAR\SHEETS\A3.11 BUILDING 3 - ENLARGED PLAN.DWG Plotted by: JOEL SLANCO on 8/9/2023 3:51:43 PM

Exhibit 7

CivTech



August 7, 2023

Ms. Karen Craver, Principal Planner
City of Goodyear
1900 North Civic Square
Goodyear, Arizona 85395

RE: PARKING REDUCTION STATEMENT FOR LMF AT ESTRELLA PARKWAY – GOODYEAR, ARIZONA

Dear Ms. Craver:

CivTech has been engaged to prepare this letter to analyze and summarize its findings related to the City's current parking ratio for multi-family homes to determine if can be reduced as described below.

BACKGROUND AND PURPOSE

Several sources which are commonly accepted by agencies in Arizona and nationally provide alternate parking demand rates for various land uses including multi-family. CivTech has reviewed these rates along with City of Goodyear standards in an effort to determine a reasonable and realistic rate to represent actual parking demand at the LMF at Estrella multi-family housing development proposed for the southwest corner of Estrella Parkway and Van Buren Street in Goodyear, Arizona.

CITY AND ALTERNATE PARKING RATIOS

City of Goodyear Parking Ratio. Within Section 6-4-2 Parking Requirements of the City of Goodyear Zoning Ordinance (December 2017) the parking ratios per dwelling unit (DU) for Multi-family homes are listed. Unique rates based on the number of bedrooms in each DU are listed. A note is provided which states the ratio for guest parking to be provided. The first row of **Table 1**, which can be found at the top of the next page, presents the City requirements. The City's ratios do not include guest parking.

Dominium. Estrella Springs and Suncrest Vista by Dominium are proposed developments of 658 combined multi-family units in the City of Goodyear, Arizona. Dominium produced a "Request for Reduction in Parking Ratio for Estrella Springs" document which considered parking utilization of other rental communities in the Pheonix metropolitan area. Unique rates based on the number of bedrooms in each DU are listed. The Dominium study included guest parking ratios of 0.10.

ULI. The Urban Land Institute published a 3rd Edition Shared Parking book (2020) which provides a methodology and ratios to determine parking demand for developments of various types, including multi-family. Before shared parking reductions are applied, and they are not applied in the case of LMF at Estrella due to the single land use nature of the project, base parking ratios are provided. Parking ratios per dwelling unit (DU) for Multi-family homes are listed. Unique rates based on the number of bedrooms in each DU are listed. The peak ratio column is utilized to provide a more conservative analysis. A column is provided which states the ratio for guest parking to be provided. The ULI ratios do not include guest parking.

ITE. The Institute of Transportation Engineers periodically updates and publishes its *Parking Generation Manual*. The latest (5th) Edition is dated January 2019. In the manual, peak period parking demand rates are provided. The ITE Land Use Code 220 for Multifamily House (Low-Rise) in the General Urban/Suburban (no nearby rail transit) setting/location for a Weekday (Monday – Friday) was used considering Bedrooms as the demand variable. The ratios shown in **Table 1** are the per bedroom rate multiplied by the number of bedrooms in the DU. The ITE ratios do not include guest parking.

Table 1: Parking Ratios Per Agency and Study

Agency/Entity	Source (Year Last Updated)	1 Bedroom*		2 Bedrooms		3 or More Bedrooms	
City of Goodyear	Zoning Ordinance (2022)†	1.5	spaces per DU	2	spaces per DU	2	spaces per DU
LMF at Estrella		1.35	spaces per DU	2	spaces per DU	2	spaces per DU
Dominium	Survey of Goodyear Properties (2021)	1.1	spaces per DU	1.45	spaces per DU	2	spaces per DU
ULI - *	Shared Parking 3rd ed. (2020)	1.15	spaces per DU	1.9	spaces per DU	2.8	spaces per DU
ITE - **	*Parking Generation Manual* (2019)‡	0.86	spaces per DU	1.72	spaces per DU	2.6	spaces per DU

* DU = Dwelling Unit.

‡ 85th Percentile based on per Multifamily Housing (Low Rise), per Bedroom, Weekday rates.

* - Urban Land Institute

** - Institute of Transportation Engineers

As noted above in **Table 1**, CivTech recommends a 1.35 ratio per DU be utilized for the 1-bedroom units in the LMF at Estrella project. For the 2- and 3- bedroom units, the City's ratio of 2.0 spaces per DU is recommended. The resulting parking demand from each ratio and the recommended ratios are provided in **Table 2**.

Table 2: Parking Demand Per Agency and Study

Unit Type	Quantity	Occupancy %	Goodyear	LMF at Estrella	Dominium	ULI	ITE
1 Bedroom	156	100%	234	211	172	179	134
2 Bedroom	118	100%	236	236	171	224	203
3 Bedroom	10	100%	20	20	20	28	26
Total	**284**	100%	**490**	**467**	**363**	**432**	**363**
Reduction from City			0	**23**	**127**	**58**	**127**
Guest Parking - 10% of the Total No. of Units	**284**		**28**	**28**		**28**	**28**
Total Number of Parking Spaces			**518**	**495**	**363**	**460**	**391**

*All total values rounded up to the next integer.

**All totals do not include the 5 staff and 4 future resident spaces (9 additional spaces).

A review of the parking demand calculations for the LMF at Estrella development show that the recommended rates would result in 495 parking spaces including guest parking spaces, 23 less than would otherwise be required the City of Goodyear standards.

CivTech expects this reduction in the number of parking spaces for the proposed LMF At Estrella development will reduce the amount of land area that would be set aside for paved for parking, thus increasing the amount open space that could be used by the future residents of the development.

CONCLUSIONS

Based on the foregoing, CivTech draws the following conclusions:

- CivTech recommends that a ratio of 1.35 spaces per DU be utilized for 1-bedroom units of the LMF at Estrella property. For the 2- and 3-bedroom units, the City provided ratio of 2.0 spaces per DU is recommended.
- A review of the parking demand calculations for the LMF at Estrella development show that the recommended rates would result in 495 parking spaces including guest parking spaces, 23 less than would otherwise be required by the City of Goodyear standards
- CivTech expects this reduction in the number of parking spaces required for the LMF at Estrella development will reduce the amount of land that would be area set aside for parking, thus increasing the amount open space that could be used by the future residents of the development.

Thank you for your time in considering this recommendation. Should you have any questions or wish to discuss this study further or require additional information, please contact me at 1(520) 405-9798 or at mmathieu@civtech.com.

Sincerely,

CivTech



Mick Mathieu, P.E., Fellow- ASCE
Senior Project Manager/Senior Traffic Engineer

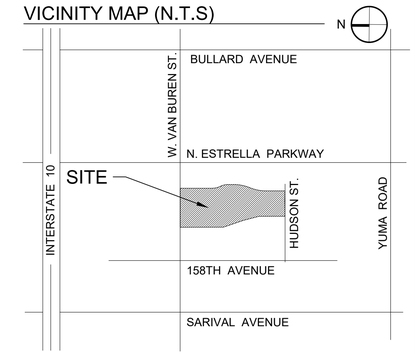
Attachments (4)

LEGAL DESCRIPTION

A PORTION OF THE FOLLOWING PROPERTY:
A PORTION OF LOT 1 OF MINOR LAND DIVISION RECORDED AT BOOK 1420 OF MAPS, PAGE 25, RECORDS OF
MARICOPA COUNTY, ARIZONA.
NOTE: EXACT LEGAL DESCRIPTION TO BE FURNISHED PRIOR TO CLOSE OF ESCROW.

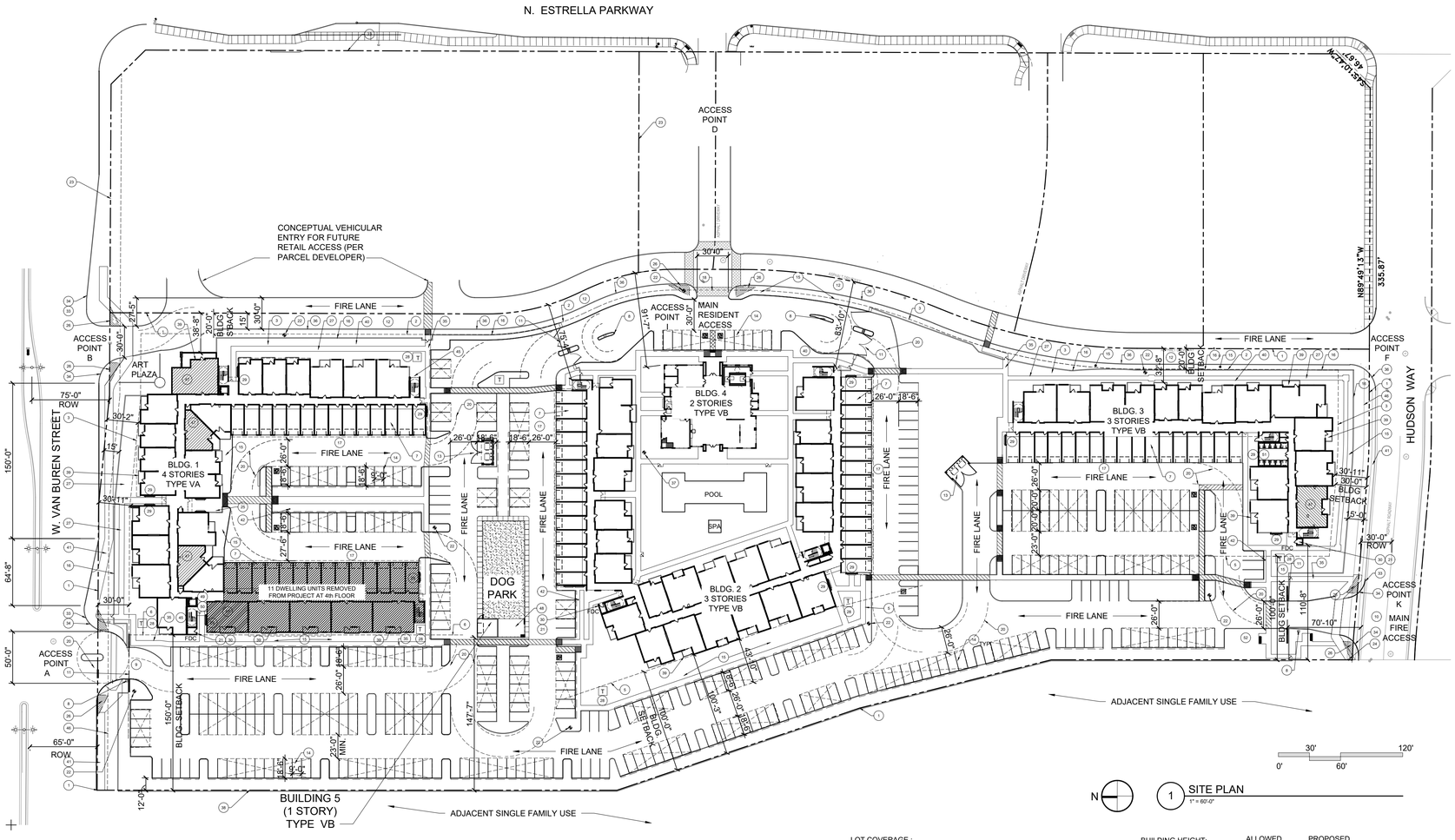
A portion of Lot 1 as shown on the Minor Land Division for Hudson Commons, recorded in Book 1420, Page 25, Maricopa County Records (MCR), lying within the northeast quarter of Section 7, Township 1 North, Range 1 West, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:
Commencing at the northeast corner of said Section 7, a brass cap in handhole, from which the north quarter corner of said Section 7, bears North 89°42'17" West, a distance of 2602.11 feet;
Thence along the north line of the northeast quarter of said Section, North 89°42'17" West, a distance of 789.59 feet;
Thence leaving said north line, South 00°17'43" West, a distance of 65.00 feet, to the northwest corner of said Lot 1 and the Point of Beginning;
Thence along the northerly line of said Lot 1, South 89°42'17" East, a distance of 274.79 feet;
Thence South 84°21'06" East, a distance of 107.19 feet;
Thence South 89°42'17" East, a distance of 79.52 feet;
Thence leaving said northerly line, South 00°10'47" West, a distance of 363.76 feet, to the beginning of a curve, concave northeasterly, having a radius of 200.00 feet;
Thence southeasterly along said curve, an arc length of 87.05 feet, through a central angle of 24°56'15";
Thence South 24°45'28" East, a distance of 15.21 feet, to the beginning of a curve, concave southwesterly, having a radius of 200.00 feet;
Thence southeasterly along said curve, an arc length of 87.05 feet, through a central angle of 24°56'15";
Thence South 00°10'47" West, a distance of 65.41 feet, to the beginning of a curve, concave northwesterly, having a radius of 500.00 feet;
Thence southwesterly along said curve, an arc length of 194.88 feet, through a central angle of 22°19'54", to the point of reverse curvature, having a radius of 500.00 feet;
Thence southwesterly along said curve, an arc length of 194.88 feet, through a central angle of 22°19'54";
Thence South 00°10'47" West, a distance of 224.26 feet, to the southerly line of said Lot 1;
Thence along said southerly line, North 89°49'13" West, a distance of 83.87 feet, to the beginning of a curve, concave northerly, having a radius of 470.00 feet;
Thence westerly along said curve, an arc length of 38.63 feet, through a central angle of 4°42'33";
Thence North 85°06'42" West, a distance of 150.46 feet, to the beginning of a curve, concave southerly, having a radius of 530.00 feet;
Thence westerly along said curve, an arc length of 27.64 feet, through a central of 2°59'19", to the westerly line of said Lot 1;
Thence leaving said southerly line, along said westerly line, North 00°00'15" East, a distance of 290.62 feet;
Thence North 14°08'46" West, a distance of 190.63 feet;
Thence North 18°42'18" West, a distance of 247.53 feet;
Thence North 00°00'15" East, a distance of 501.76 feet, to the Point of Beginning.

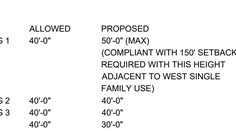
VICINITY MAP (N.T.S)



KEYNOTES

1. PROPERTY BOUNDARY DEFINING PORTION OF APN 500-10-852G
2. BUILDING SETBACK, SIDE YARD, 20' REQUIRED
3. BUILDING SETBACK, STREET, 20' REQUIRED
4. NOT USED
5. 100' BUILDING SETBACK, SIDE YARD ADJACENT TO SINGLE FAMILY (MAXIMUM 40' BUILDING HEIGHT AT THIS SETBACK)
6. 150' BUILDING SETBACK, SIDE YARD ADJACENT TO SINGLE FAMILY (MAXIMUM 50' BUILDING HEIGHT AT THIS SETBACK)
7. PRIVATE GARAGE PARKING
8. REQUIRED GATE KNOX BOX FOR FIRE DEPARTMENT (IFC 506.4)
9. TENANT EXIT ONLY GATE (26' CLEAR FOR FIRE APPARATUS)
10. MAIN EMERGENCY ENTRANCE FOR FIRE APPARATUS
11. GATE, SERVES AS FIRE LANE WHEN OPEN
12. 15' FROM PROPERTY LINE TO CURB
13. TRASH ENCLOSURE PER CITY STANDARD
14. STANDARD SURFACE PARKING STALL, 9'x20' or 9' x 18'-6" w/ 1'-6" OVERHANG
15. LANDSCAPED AREA, PART OF REQUIRED 20% OF NET SITE AREA
16. SITE WALL, 6' HIGH, SEE LANDSCAPE DRAWINGS
17. BUILDING SETBACK, 10' FROM FIRE LANE (WAIVED AT GARAGE PARKING)
18. PRIMARY TENANT AND VISITOR ENTRANCE (30')
19. MIN. FIRE LANE, 26' WIDE, BUILDING HEIGHT OVER 30' (IFC D105.2)
20. MIN FIRE APPARATUS TURNING RADIUS, INSIDE 28', OUTSIDE 48'
21. FIRE DEPARTMENT CONNECTION (FDC), LOCATED ON THE APPROACH SIDE OF THE BUILDING, WITHIN ONE HUNDRED (150) FEET IN LENGTH OF A FIRE HYDRANT, UNLESS AN APPROVED TURN AROUND OR A SECONDARY OUTLET IS PROVIDED. (IFC 912.2)
22. FIRE HYDRANT, HOSE LAY DISTANCE TO STRUCTURE EXTERIOR MAX 400 FT. & WITHIN 150 FT. MAX TO PROPOSED FDC LOCATIONS (IFC 507.5.1)
23. PROPERTY LINE (NOT PART OF PROPOSED SITE DESIGN)
24. EXISTING FIRE HYDRANT.
25. KNOX BOX (IFC 506.1 & IFC 506.4)
26. SITE VISIBILITY TRIANGLE PER CITY STANDARD
27. PRIVATE ON-SITE SIDEWALK PER CIVIL AND LANDSCAPE DRAWINGS
28. TRANSFORMER AND PAD LOCATION, (2) AS PER POWER COMPANY REQUIREMENTS, LANDSCAPE SCREENING, SEE LANDSCAPE DRAWINGS
29. SES & ELECTRIC METER LOCATIONS
30. FIRE RISER ROOM, FOR AUTOMATIC FIRE SPRINKLER SYSTEM (IFC 903.2)
31. FIRE LINE BACK FLOW PREVENTOR
32. LANDSCAPE SCREEN FOR UTILITY, SEE LANDSCAPE
33. PROVIDE ACCESSIBLE CURB AS PER DETAIL MAG STANDARD P1238-2
34. NEW CURB CUT PER GOODYEAR STANDARD, SEE CIVIL DWGS
35. PRIVATE ON-SITE SIDEWALK PER CIVIL & LANDSCAPE.
36. EXISTING CURBING NOT TO BE REMOVED (UNTIL DRIVEWAY AND RELATED DETAILS ARE APPROVED FOR BOTH PEDESTRIAN AND VEHICLE SAFETY)
37. CLASS 1, WET STANDPIPE CONNECTION (TO BE PART OF BUILDING SPRINKLER SYSTEM WHERE REQUIRED PER IFC 503.1.1)
38. EXISTING SITE WALL ALONG WEST PROPERTY LINE (VERIFY LOCATION)
39. 60 SQ. FT. (MIN.) BALCONY AT ALL UNITS
40. FIRE AERIAL ACCESS SETBACK FROM CURB (15'-30')
41. EXISTING PUBLIC SIDEWALK
42. EV CHARGER STATION (2 VEHICLES, SIDE BY SIDE)
43. CAMPUS MAP AT PRIMARY FIRE APPARATUS ENTRY (IFC 505.1)
44. BUILDING ADDRESS LOCATION (IFC 505.1)
45. LADDER ACCESS TO TOP OF ROOF (IFC 504.3)
46. 10' PUBLIC UTILITY EASEMENT ADJACENT TO PROPERTY LINE (PUE)
47. HATCHED UNIT, INDICATES TYPE A ACCESSIBLE
48. SHADED OUTDOOR SPACE, PART OF BUILDING 5 STRUCTURE
49. SECURITY GATE AT NON CONDITIONED BUILDING CORRIDOR
50. SECURITY GATE AT STAIR
51. BIKE REPAIR AMENITY (LEVEL 1), STORAGE (LEVELS 2 AND 3)
52. LOCATION FOR BENCH AND DOGGY POT AMENITIES





PROJECT DATA

PROJECT ADDRESS
SOUTHWEST OF ESTRELLA PARKWAY AND VAN BUREN INTERSECTION
GOODYEAR, AZ

PROJECT DESCRIPTION
THIS PROJECT IS A MULTIFAMILY FOR RENT PROJECT CONSISTING OF 2 THREE STORY APARTMENT BUILDINGS, 1 APARTMENT BUILDING PART-FOUR -STORY AND PART-THREE-STORY, 1 TWO STORY AMENITY BUILDING, AND 1 ONE STORY MAINTENANCE BUILDING. RECREATIONAL OPEN SPACE INCLUDES POOL AREA, EXERCISE PATH, AND DOG PARK.

ZONING:
EXISTING PAD
PROPOSED MF24 (MULTI-FAMILY)

APN:
500-10-852G

DENSITY CALCULATION:
ALLOWABLE 26 UNITS/ACRE

PROPOSED 25 UNITS/ACRE
284 UNITS (11.37 NET ACRES x 25 = 284.25)

OCCUPANCY:
MIXED - SEPARATED OCCUPANCIES (IBC 508.4)
R-2 APARTMENTS (IBC 310) - FLOORS 1- 4
U PRIVATE PARKING GARAGE (IBC 311) FLOORS 1

CONSTRUCTION TYPE:
TYPE VB

SPRINKLERS:
YES, NFPA 13R

EMERGENCY LIGHTING:
YES

MANUAL FIRE ALARM SYSTEM:
YES, IFC 907.3.2

APPLICABLE CODES AND STANDARDS
2018 INTERNATIONAL BUILDING CODE
2018 INTERNATIONAL RESIDENTIAL CODE
2010 ADA STANDARDS FOR ACCESSIBLE DESIGN
2018 INTERNATIONAL FIRE CODE w/ PHOENIX AMMENDMENTS
2018 INTERNATIONAL ENERGY CONSERVATION CODE
2018 INTERNATIONAL MECHANICAL CODE
2018 INTERNATIONAL CODE COUNCIL PERFORMANCE CODE
2018 PHOENIX BUILDING CONSTRUCTION CODE-ADMINISTRATIVE PROVISIONS
2018 INTERNATIONAL FUEL GAS CODE (IFGC)
2018 INTERNATIONAL PLUMBING CODE
2009 ANSI ICC A117.1
2017 NATIONAL ELECTRICAL CODE / NFPA-70

NET SITE AREA (APN 500-10--852G)
495,466 SF (11.37 ACRES)

RECREATIONAL OPEN SPACE:

REQUIRED	113,600 SF (284 UNITS x 400 SF/UNIT)	
PROPOSED	115,338 SF	
	LANDSCAPED OPEN SPACE, WALKING PATHS	101,677 SF
	AMENITY BUILDING 4 INTERIORS	8,802 SF
	AMENITY BUILDING ROOF TOP	999 SF
	BIKE REPAIR, BUILDING 3 INTERIORS	635 SF
	BUILDING LOBBIES (GRADE LEVEL)	1,225 SF
	BUILDING LOBBIES (UPPER LEVELS)	2000 SF
	TOTAL	**115,338 SF**

PRIVATE OPEN SPACE
REQUIRED 17,700 SF (295 UNITS x 60 SF/UNIT)
PROPOSED 23,446 SF (TOTAL PRIVATE PATIOS / BALCONIES)

AMENITIES PROVIDED:
1. AMENITY BUILDING WITH VIEW DECK, POOL AREA, BBQ & PICNIC AREAS
2. DOG PARK, DOG WASH, SHADED DOG PARK PATIO, DOG POT STATIONS
3. WALKING PATHS THROUGHOUT THE SITE WITH THROUGH-BUILDINGS LINKS
4. BICYCLE REPAIR SPACE IN BUILDING 3

BUILDING SETBACKS:

	REQUIRED	PROPOSED
FRONT SETBACK (NORTH STREET)		
BUILDING 1	30'-0"	30'-2"
REAR SETBACK (SOUTH STREET)		
BUILDING 3	30'-0"	30'-11"
SIDE YARD SETBACK (EAST RETAIL)		
BUILDING 1	20'-0"	38'-8"
BUILDING 2	20'-0"	75'-4"
BUILDING 3	20'-0"	32'-8"
BUILDING 4	20'-0"	83'-10"
SIDE YARD SETBACK (WEST SINGLE FAMILY)		
BUILDING 1 (MAX BUILDING HEIGHT 50')	150'-0"	150'- 0" *
BUILDING 2 (MAX BUILDING HEIGHT 40')	100'-0"	100'- 3" *
BUILDING 3 (MAX BUILDING HEIGHT 40')	100'-0"	110'-8" *
BUILDING 5 (MAX BUILDING HEIGHT 30')	50'-0"	147'-7" *

*(ADJACENT TO SINGLE FAMILY ZONING, MIN 50' SETBACK, INCREASES 5' FOR EVERY 1' OVER 30' BLDG HT)

PARKING:

REQUIRED:		PROPOSED PARKING :
(156) ONE BEDROOM x 1.5 PER	234 SPACES	x 1.35 SPACES = 211
(118) TWO BEDROOM x 2 PER	236 SPACES	x 2 SPACES = 236
(10) THREE BEDROOM x 2 PER	20 SPACES	x 2 SPACES = 20
GUEST (284 UNITS/10)	28.4 SPACES	x 1 SPACES = 28
FUTURE		
STAFF		
TOTAL	**519 SPACES**	**495 SPACES** (1.74 SPACES/UNIT)

LOT COVERAGE :
MAX. ALLOWED = 50% OF NET SF
495,466 NET SF x .5 = 274,733 SF MAX

PROPOSED: **35.4%** OF NET SF

CARPORT PARKING	51,120 SF (180 SF X 284 UNITS)
BUILDING 1	45,667 SF FOOTPRINT
BUILDING 2	43,288 SF FOOTPRINT
BUILDING 3	27,127 SF FOOTPRINT
BUILDING 4	7,223 SF FOOTPRINT
BUILDING 5	720 SF FOOTPRINT
TOTAL	**175,145 SF**

(175,145 SF/495,466 SF) x 100 = 35.4%)

BUILDING AREAS:

APARTMENT BUILDING 1	APARTMENT BUILDING 2
1ST FLR GROSS 43,434 SF	1ST FLR GROSS 41,503 SF
2ND FLR GROSS 42,388 SF	2ND FLR GROSS 40,376 SF
3RD FLR GROSS 42,388 SF	3RD FLR GROSS 40,376 SF
4TH FLR GROSS 29,724 SF	**TOTAL 122,255 SF**
TOTAL 157,843 SF	AMENITY BUILDING 4
APARTMENT BUILDING 3	1ST FLR GROSS 6,996 SF
1ST FLR GROSS 27,127 SF	2ND FLR GROSS 1,806 SF
2ND FLR GROSS 26,121 SF	**TOTAL 8,802 SF**
3RD FLR GROSS 26,121 SF	MAINTENANCE BUILDING 5
TOTAL 79,369 SF	1ST FLR GROSS 720 SF
	TOTAL 720 SF

PARKING:
PROVIDED:
GARAGE 73 SPACES
SURFACE PARKING (284 CARPORT, 138 OTHER) 422 SPACES
TOTAL 495 SPACES

ACCESSIBLE PARKING SPACES	REQUIRED	PROVIDED
PER IBC 2% OF 519 = 10.38	11	11

COVERED PARKING SPACES	REQUIRED	PROVIDED
1 COVERED PARKING PER UNIT	284	357 (GARAGE 73, CARPORT 284)

BUILDING HEIGHT:

	ALLOWED	PROPOSED
APARTMENT BUILDING 1	40'-0"	50'-0" (MAX) (COMPLIANT WITH 150' SETBACK REQUIRED WITH THIS HEIGHT ADJACENT TO WEST SINGLE FAMILY USE)
APARTMENT BUILDING 2	40'-0"	40'-0"
APARTMENT BUILDING 3	40'-0"	40'-0"
AMENITY BUILDING 4	40'-0"	30'-0"
MAINTENANCE BUILDING 5	30'-0"	16'-0"

UNIT MIX:

UNIT TYPE	COUNT
1 BEDROOM (54%+-)	156
2 BEDROOM (42%+-)	118
3 BEDROOM (4%+-)	10
TOTAL (100%)	**284**

UNIT MIX BREAKDOWN

UNIT TYPE	SQ. FT.	BALC. SQ. FT.	COUNT	NRSF
A1.0	744	74	50	37,200
A2.0	745	87	50	37,250
A3.0	807	113	16	12,912
A4.0	927	81	40	37,080
B1.0	1,059	60	62	65,658
B2.0	1,137	85	38	43,206
B3.0	1,174	64	9	10,566
B3.1	1,179	64	9	10,611
C1.0	1,393	224	4	5,572
C2.0	1,575	225	6	9,450
		TOTAL	**284**	**269,505 ***

*NOTE: NRSF DOES NOT INCLUDE PRIVATE BALCONY AND PATIO AREAS

GENERAL NOTES

1. PROPERTY LINE, DEFINING PORTION APN 500-10-852G
2. ANY GATES INSTALLED ACROSS A FIRE APPARATUS ACCESS ROAD WILL REQUIRE A SEPARATE SUBMITTAL AND PERMIT (IFC 503.6)
3. KNOX BOX REQUIRED AT POOL GATES (IFC 506.4)
4. FOUR (4) STORY BUILDINGS WILL BE REQUIRED TO TO BE EQUIPPED WITH INTERIOR, CLASS 1, STANDPIPE SYSTEM ON EACH FLOOR
5. 7 FOOT CLEAR SPACE REQUIRED AROUND ALL FIRE HYDRANTS, SEE LANDSCAPE PLANS
6. FIRE EMERGENCY GUIDES, (IFC 403.10.2.1 THROUGH 403.10.2.2.3)
7. THE FIRE DEPARTMENT DOES NOT ALLOW SPEED BUMPS OR ANY OBSTRUCTIONS THAT MAY IMPEDE AN EMERGENCY VEHICLE RESPONSE ON A FIRE DEPARTMENT ACCESS ROADWAY (IFC 503.4.1)
8. (IFC 504.3) ROOF ACCESS FOR FOUR (4) STORY BUILDINGS
9. (IFC 903.4) FIRE ALARM SYSTEM FOR SPRINKLER SYSTEM
10. (IFC 907.2.9.1) MANUAL FIRE ALARM SYSTEM
11. (IFC 915.1.5) CARBON MONOXIDE DETECTION
12. LOCATIONS OF SES & ELECTRIC METERS TO BE DETERMINED
13. DIMENSIONS SHOWN ARE FOR GENERAL REFERENCE AND NOT TO BE USED FOR CONSTRUCTION LAYOUT. OBTAIN LAYOUT DIMENSIONS FROM CIVIL ENGINEERING

PROJECT TEAM

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LANDSCAPE ARCHITECT
COE & VAN LOO CONSULTANTS, INC
CONTACT: COLIN HANSON
602.285.4766

MPE ENGINEER
TBD

STRUCTURAL ENGINEER
TBD

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www.ccbgarchitects.com

PRELIMINARY
NOT FOR CONSTRUCTION

THE STATLER AT ESTRELLA PARKWAY

SW OF ESTRELLA PARKWAY AND VAN BUREN
GOODYEAR, AZ 85338

ISSUE

DATE	REV	FOR
08.09.2023		REZONE SUBMITTAL

Drawn
HM,HV
Checked
BK
Job Number
2152
Drawing
SITE PLAN
Sheet
A1.00

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X:\2152 LEON CAPITAL GROUP GOODYEAR\2152 DRAWINGS\A001 PROJECT HERE\LEON CAPITAL GROUP - GOODYEAR\SHEETS\A1.0 SITE PLAN.DWG Plotted by: JOEL BLANCO on 8/9/2023 10:59:10 AM

The Statler
at Estrella Park
Conceptual Landscape Plan

Trees

Common	Botanical Name	Size
Mulga	*Acacia aneura*	24″ Box
Desert Willow	*Chilopsis linearis*	24″ Box
Desert Ironwood	*Olneya tesota*	24″ Box
Date Palm	*Phoenix dactylifera*	18′ Brown Trunk
Red Push Chinese Pistache	*Pistacia chinensis 'Red Push'*	24″ Box
Thornless Chilean Mesquite	*Prosopis chilensis 'Thornless'*	24″ Box
Southern Live Oak	*Quercus virginiana*	24″ Box
Texas Mountain Laurel	*Sophora secundiflora*	15 Gal

Shrubs

Common	Botanical Name	Size
Green Hopseed Bush	*Dodonaea viscosa 'Green'*	15 Gal
Winter Blaze Emu Bush	*Eremophila glabra carnosa 'Winter Blaze'* ™	5 Gal
Blue Bells Emu Bush	*Eremophila hygrophana 'Blue Bells'*	5 Gal
Emu Bush	*Eremophila prostrata 'Outback Sunrise'*	5 Gal
Giant Hesperaloe	*Hesperaloe funifera*	5 Gal
Brakelights Red Yucca	*Hesperaloe parviflora 'Perpa'* ™	5 Gal
Purple Trailing Lantana	*Lantana montevidensis*	5 Gal
New Gold Lantana	*Lantana x 'New Gold'*	5 Gal
Compact Texas Ranger	*Leucophyllum frutescens 'Compacta'*	5 Gal
Lynn's Legacy Langman's Sage	*Leucophyllum langmaniae 'Lynn's Legacy'*	5 Gal
Rio Bravo Langman's Sage	*Leucophyllum langmaniae 'Rio Bravo'* ™	5 Gal
Pink Muhly Grass	*Muhlenbergia capillaris*	5 Gal
Lindheimer's Muhly	*Muhlenbergia lindheimeri*	5 Gal
Purple Muhly	*Muhlenbergia rigida 'Nashville'* ™	5 Gal
Slipper	*Pedilanthus macrocarpus*	5 Gal
Yellow Bells	*Tecoma stans*	15 Gal
Germander	*Teucrium chamaedrys*	5 Gal
Prostrate Germander	*Teucrium chamaedrys 'Prostratum'*	5 Gal
Arizona Rosewood	*Vauquelinia californica*	15 Gal

Groundcover

Common	Botanical Name	Size
Bermuda Grass	*Cynodon dactylon*	Sod

Provided Open Space Area (Included LS Setbacks)	138,498 SF

S Estrella Parkway

W Van Buren Street

W Hudson Way

Pedestrian Gate

Proposed Wall (See Wall Plan for Details

Vehicular Gate

Pedestrian Gate

Public Art Plaza

Leasing Entrance

Secondary Amenity

Pedestrian Gate

Proposed Wall (See Wall Plan for Details

Dog Park

Amenity

Proposed Fence (See Wall Plan for Details

Pedestrian Gate

Vehicular Gate

Proposed Wall (See Wall Plan for Details

Pedestrian Gate

Vehicular Gate

Proposed Wall (See Wall Plan for Details

Existing Wall

0′ 90′

9 August 2023
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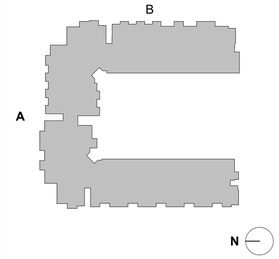
CVL CONSULTANTS

Goodyear Tracking Number: PRJ21-14412

MATERIAL KEY

1	STUCCO, PAINTED, OFF-WHITE
2	STUCCO, PAINTED, LIGHT BROWN
3	SIMULATED STAINED WOOD SIDING, PAINTED, BROWN
4	ARCHITECTURAL FEATURE, CEMENTITIOUS PANELS, PAINTEDG GLOSS, COPPER COLOR
5	ARCHITECTURAL FEATURE, CEMENTITIOUS PANELS, PAINTED GLOSS, DARK BLUE COLOR
6	STONE VENEER, MODULAR STONE, OFF-WHITE COLOR
7	MASONRY BLOCK VENEER WITH HORIZONTAL JOINTS RAKED, PAINTED, MID-TONE GRAY
8	BALCONY RAILING, PAINTED GLOSS, CHARCOAL
9	EXTERIOR CORRIDORS AND STAIRS MESH, PAINTED GLOSS, CHARCOAL
10	WINDOW AND DOOR FRAMING, PRE MANUFACTURED COLOR, BLACK
11	BALCONY, CEMENTITIOUS FASCIA, PAINTED, CHARCOAL
12	EAVE, CEMENTITIOUS FASCIA, PAINTED, CHARCOAL
13	ARTICULATED TOP OF PARAPET (HAT), CEMENTITIOUS FASCIA, PAINTED, CHARCOAL
14	BALCONY RAILING, GLASS

KEY PLAN





ELEVATION B - EAST 2
3/32" = 1'-0"



NORTH ELEVATION A - VAN BUREN STREET 1
3/32" = 1'-0"

CCBG
Architects, Inc.
Phoenix - San Diego
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www.ccbgarchitects.com

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CONSTRUCTION

THE STATLER AT ESTRELLA PARKWAY

SW OF ESTRELLA PARKWAY AND VAN BUREN
GOODYEAR, AZ 85338

ISSUE

DATE	REV	FOR
08.09.23		REZONE SUBMITTAL

Drawn
HM
Checked
BK
Job Number
2152
Drawing
BUILDING 1 - EXTERIOR ELEVATIONS
Sheet
A1.5

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X:\2152 LEON CAPITAL GROUP GOODYEAR\2152 DRAWING\ARDT PROJECT HERE\LEON CAPITAL GROUP - GOODYEAR\SHEETS\A1.0 BUILDING 1 - EXTERIOR ELEVATIONS.DWG Plotted by: JOEL BLANCO on 8/18/2023 4:57:39 PM



LCG at Estrella Parkway

Rezone from C-2 (General Commercial) to MF-24 (Multi-Family)

Location

LCG AT ESTRELLA PARKWAY REZONE

11 ac W of SWC of Estrella & Van Buren in Hudson Commons PAD

- N – Safeway at Canyon Trails
- S – Hudson Commons Bungalows at Estrella
- E – Hudson Commons Commercial – Culver's & SomeBurros
- W – Hudson Commons Single Family

Site accessed via Van Buren, Estrella & Hudson Way

Estrella/Hudson signalized by 7.1.24



Background & Previous Actions

LCG AT ESTRELLA PARKWAY REZONE

Business & Commerce Land Use – can include high density residential

01/16 – Part of 102 ac rezone from AU to PAD

- 11 ac part of 19 ac of general commercial
- 17 ac of multi-family & 66 ac of single family

Site Plan Approvals

- 03/19 – Culver's
- 05/19 – Bungalows (single-story rental)
- 01/21 - SomeBurros

Final Plat Approvals for Single Family

- 2019 Phase 1 & 2020 Phase 2

Current Request

LCG AT ESTRELLA PARKWAY REZONE

Rezone from PAD w/underlying C-2 to PAD w/underlying MF-24

To facilitate development of:

- Two 3-story buildings at 40 ft (per MF-24 regs)
  - 100' from SF property line
- One 4-story building at 50 ft (10 ft above regs)
  - 150' from SF property line
- 284 rental units at a density of 25 du/ac (1 du/ac above regs)
  - 156 one-bdrm, 118 two-bdrm, 10 three-bdrm
- 12-ft LS buffer adjacent to SF (8 ft less than PAD regs)
- Clubhouse w/amenity area & 2nd story rooftop deck and dog park


at Estrella Park
Conceptual Landscape Plan
S Estrella Parkway
W Van Buren Street
W Hudson Way
Provided Open Space Area (Included LS Setbacks) 138,498 SF
Trees
Thornless Chilean Mesquite Prosopis chilensis 'Thornless' 24" Box
Southern Live Oak Quercus virginiana 24" Box
Texas Mountain Laurel Sophora secundiflora 15 Gal
Shrubs
Common Botanical Name Size
Green Hopseed Bush Dodonaea viscosa 'Green' 15 Gal
Winter Blaze Emu Bush Eremophila glabra carnosa 'Winter Blaze' ™ 5 Gal
Blue Bells Emu Bush Eremophila hygrophana 'Blue Bells' 5 Gal
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Giant Hesperaloe Hesperaloe funifera 5 Gal
Brakelights Red Yucca Hesperaloe parviflora 'Perpa' ™ 5 Gal
Purple Trailing Lantana Lantana montevidensis 5 Gal
New Gold Lantana Lantana x 'New Gold' 5 Gal
Compact Texas Ranger Leucophyllum frutescens 'Compacta' 5 Gal
Lynn's Legacy Langman's Sage Leucophyllum langmaniae 'Lynn's Legacy' 5 Gal
Rio Bravo Langman's Sage Leucophyllum langmaniae 'Rio Bravo' ™ 5 Gal
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Purple Muhly Muhlenbergia rigida 'Nashville' ™ 5 Gal
Slipper Pedilanthus macrocarpus 5 Gal
Yellow Bells Tecoma stans 15 Gal
Germander Teucrium chamaedrys 5 Gal
Prostrate Germander Teucrium chamaedrys 'Prostratum' 5 Gal
Arizona Rosewood Vauquelinia californica 15 Gal
Groundcover
Common Botanical Name Size
Bermuda Grass Cynodon dactylon Sod
Proposed Wall (See Wall Plan for Details
Pedestrian Gate
Vehicular Gate
Pedestrian Gate
Public Art Plaza
Leasing Entrance
Secondary Amenity
Amenity
Dog Park
Pedestrian Gate
Proposed Wall (See Wall Plan for Details
Pedestrian Gate
Vehicular Gate
Proposed Wall (See Wall Plan for Details
Proposed Fence (See Wall Plan for Details
150'
100'
100'
Proposed Wall (See Wall Plan for Details
Pedestrian Gate
Vehicular Gate
Existing Wall
9 August 2023
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CVL CONSULTANTS
Goodyear Tracking Number: PRJ21-14412

Deviations Addressed

LCG AT ESTRELLA PARKWAY REZONE

- One 4-story building - 50 ft
  - Stipulated to Van Buren frontage & additional design enhancements prior to SP approval
  - MF-24 regs will require a 150-foot setback from SF
- 284 rental units - density of 25 du/ac
  - Stipulated to recreational open space amenities in excess of PAD 400 sf/du requirement prior to SP approval
- 12-foot LS buffer adjacent to SF
  - 20-foot buffer in PAD was for commercial adjacent to SF
  - 12-foot buffer stipulated to trees 30' OC & 50% of area w/live vegetation

Hudson Commons Single Family
8 homes north of Hudson Way

(min. rear setbacks: houses 20'/covered patios 10')



Hudson Commons Single Family
9 homes south of Van Buren

(min. rear setbacks: houses 20'/covered patios 10')



LCG 4-story Building towards Estrella & fronting Van Buren



ELEVATION B - EAST 2



NORTH ELEVATION A - VAN BUREN STREET 1

LCG 4-story Building



LCG Clubhouse & 3-story Building



Public Participation Process

LCG AT ESTRELLA PARKWAY REZONE

- Neighborhood Meeting on 7/19
  - 20 people attended; over half spoke against; no one in favor
  - Opposition: loss of commercial zoning, overbuilding of MF, decrease in home values, school overcrowding, increased traffic causing accidents

- Notice of Public Hearings
  - Legal Ad, Postcard, Property posted
  - To date, 31 emails have been received; 30 against; 1 in favor
  - Same opposition

P&Z Commission Public Hearing

LCG AT ESTRELLA PARKWAY REZONE

- Six adjacent homeowners said they built in the area for:
  - Pedestrian access to commercial
  - Job opportunities for their children
  - Neighborhood gathering spots and attractions
  - Sit-down restaurants with outdoor dining
  - Mixed-use community
- Opposition: loss of commercial zoning, increased density & height, reduction of the buffer, school overcrowding, and increased traffic
- Ten cards stating opposition to the rezone

Staff Findings

LCG AT ESTRELLA PARKWAY REZONE

- Meets Zoning Ordinance criteria for a rezone

- Consistent with General Plan Business & Commerce Land Use

- Stipulated to allow for compatibility between MF & SF
  - 4-story building on Van Buren w/150' setback from SF
  - Recreational open space to exceed 400 sf per unit
  - Minimum 20% of site in landscaping w/50% live vegetation coverage
  - Trees in west buffer at 30' O.C. w/50% live vegetation coverage
  - Lighting fixtures in adjacent parking canopies to be full cutoff

P&ZC Findings & Recommendation

LCG AT ESTRELLA PARKWAY REZONE

- Commission discussion of the rezone:
  - Does not meet locational criteria
  - Requests higher density & building height
  - Condos or townhomes would be more appropriate
  - Too many apartments & traffic
  - Greater need for additional city services
- A motion to approve failed 1 to 4 (no subsequent motion)
- Per Commission By-laws, prior failed motion is a recommendation to deny

Recommendations & Alternatives

LCG AT ESTRELLA PARKWAY REZONE

- Staff recommends approval subject to the stipulations in Ordinance 2023-1593
- The Planning & Zoning Commission recommends denial
- Council may deny or conditionally approve subject to the stipulations in Ordinance 2023-1593

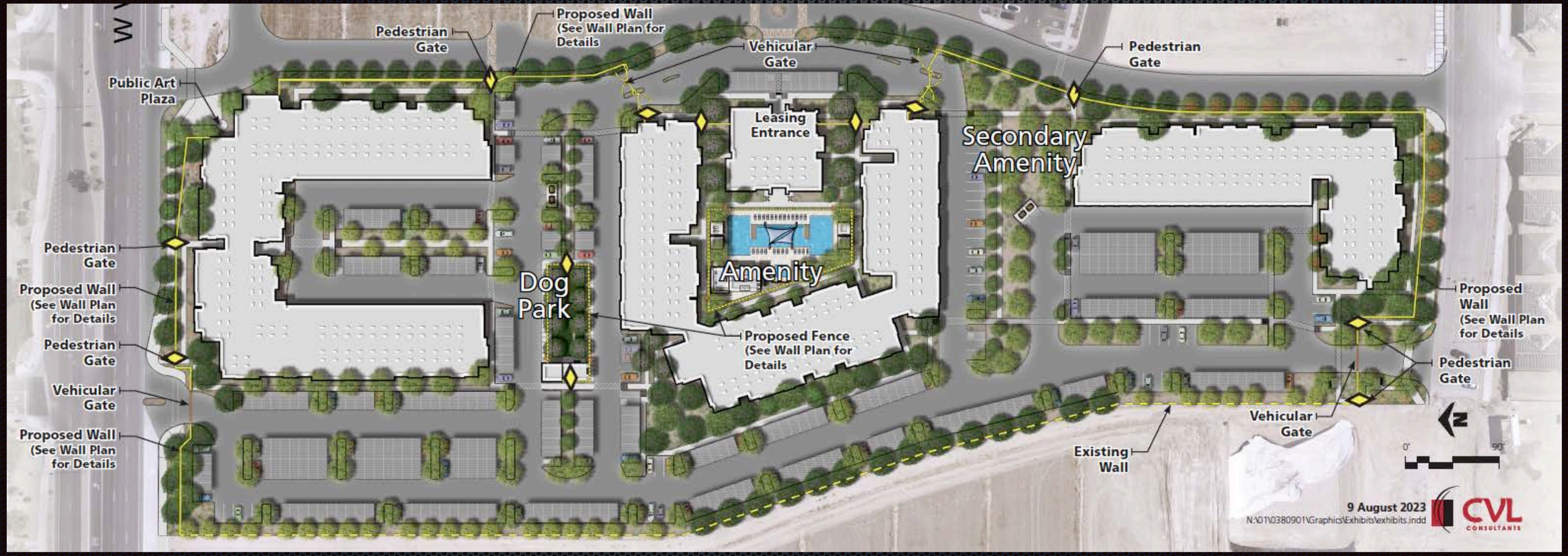

CITY OF
Goodyear

The Statler at Estrella Parkway

West of Estrella Parkway on the South Side of Van Buren Street
City Council
September 25, 2023


STATLER

The Statler at Estrella Parkway



The Statler at Estrella Parkway




STATLER

General Plan Conformance

- *Provide **diverse and quality** housing products.* CC-2-1
- *A **diverse stock of high quality housing** that meets the needs of all residents.* CC-2
- *Foster the creation and maintenance of **attractive, high quality neighborhoods**.* CC-1-3
- *Goodyear has a need for a **variety of housing types**, such as **multi-family housing.***
- *High Density residential development is permitted in the Business & Commerce category when located **adjacent to…single family residential, commercial area, or used as buffer between the Neighborhoods category and Business & Commerce category**.* Standard 41
- *Establish an **infill development policy** and research and establish programs for infill development.* GD-2-3

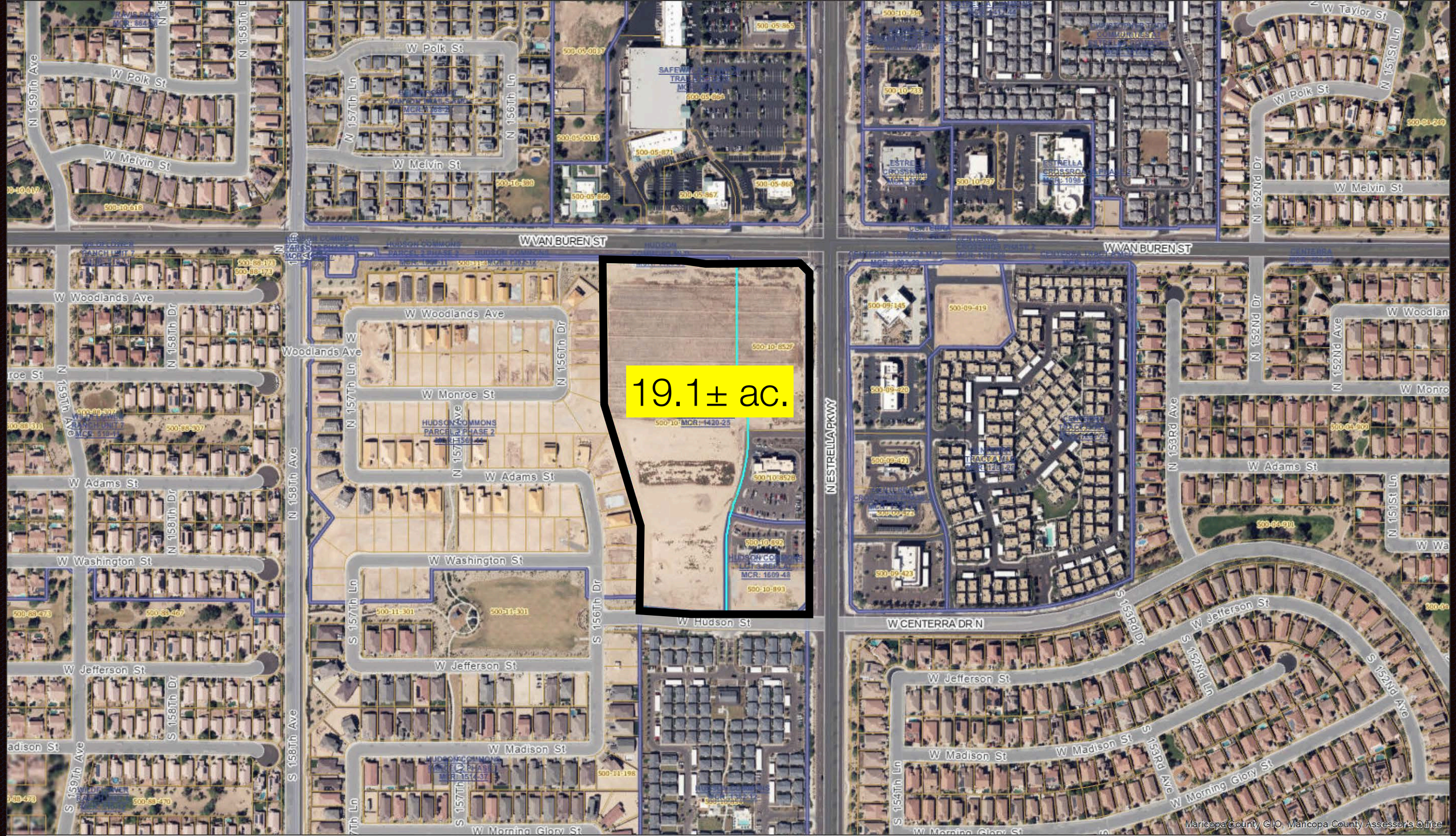
Hudson Commons PAD (2016)



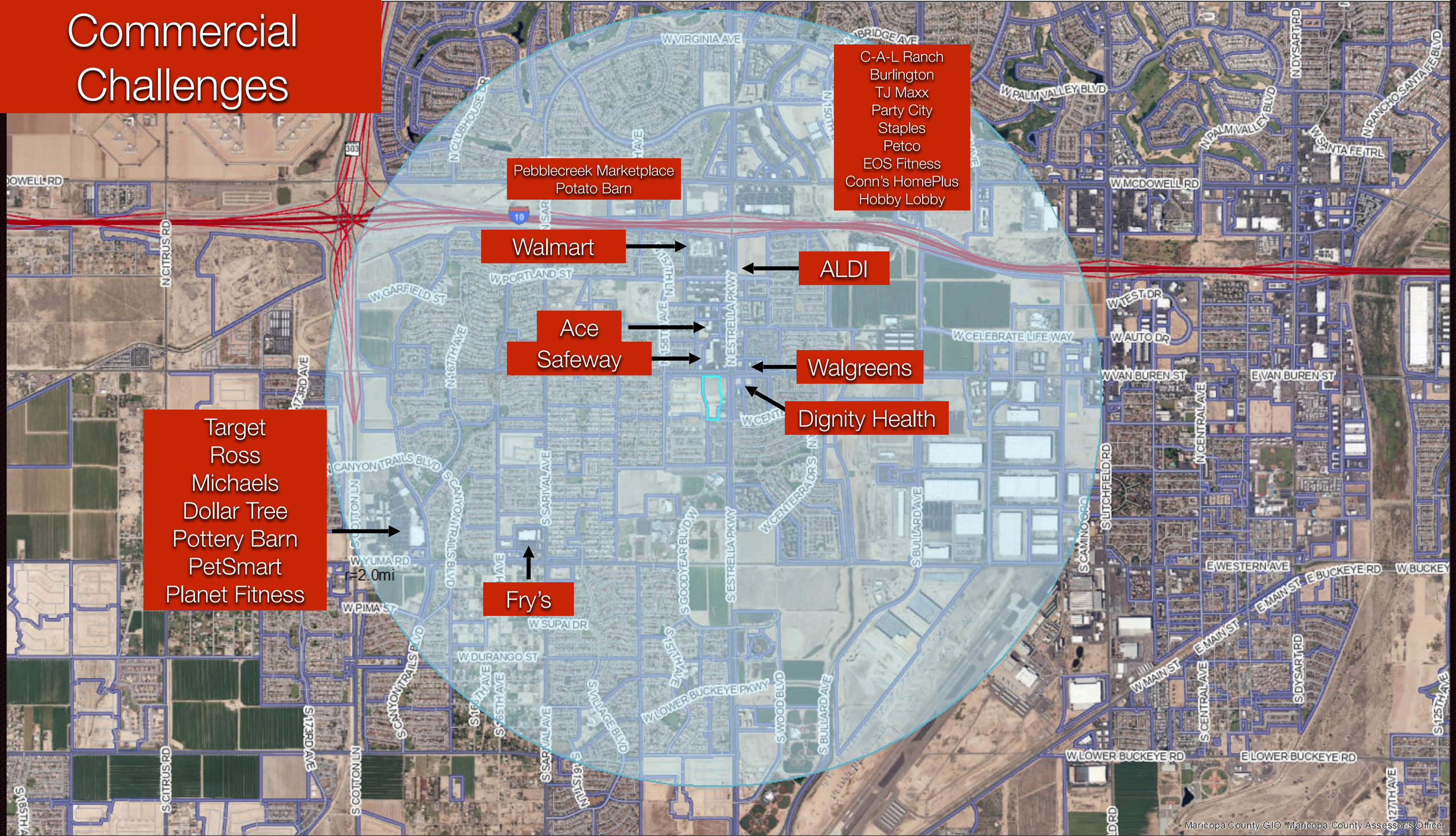
GENERAL DEVELOPMENT PLAN



SITE PLANNING & CIRCULATION PLAN CONCEPT


19.1± ac.
W VAN BUREN ST
N ESTRELLA PKWY
W Hudson St
W CENTERRA DR N
W Polk St
W Melvin St
W Woodlands Ave
W Monroe St
W Adams St
W Washington St
W Jefferson St
W Madison St
W Morning Glory St
N 159Th Ave
N 158Th Dr
N 157Th Ln
N 156Th Ln
S 158Th Ave
S 157Th Ln
S 156Th Dr
N 153Rd Ave
N 152Nd Dr
N 151St Ln
S 153Rd Dr
S 152Nd Ln
S 152Nd Ave
S 154Th Ln
W Taylor St
HUDSON COMMONS PARCEL 2 PHASE 2
Maricopa County GIO, Maricopa County Assessor's Office

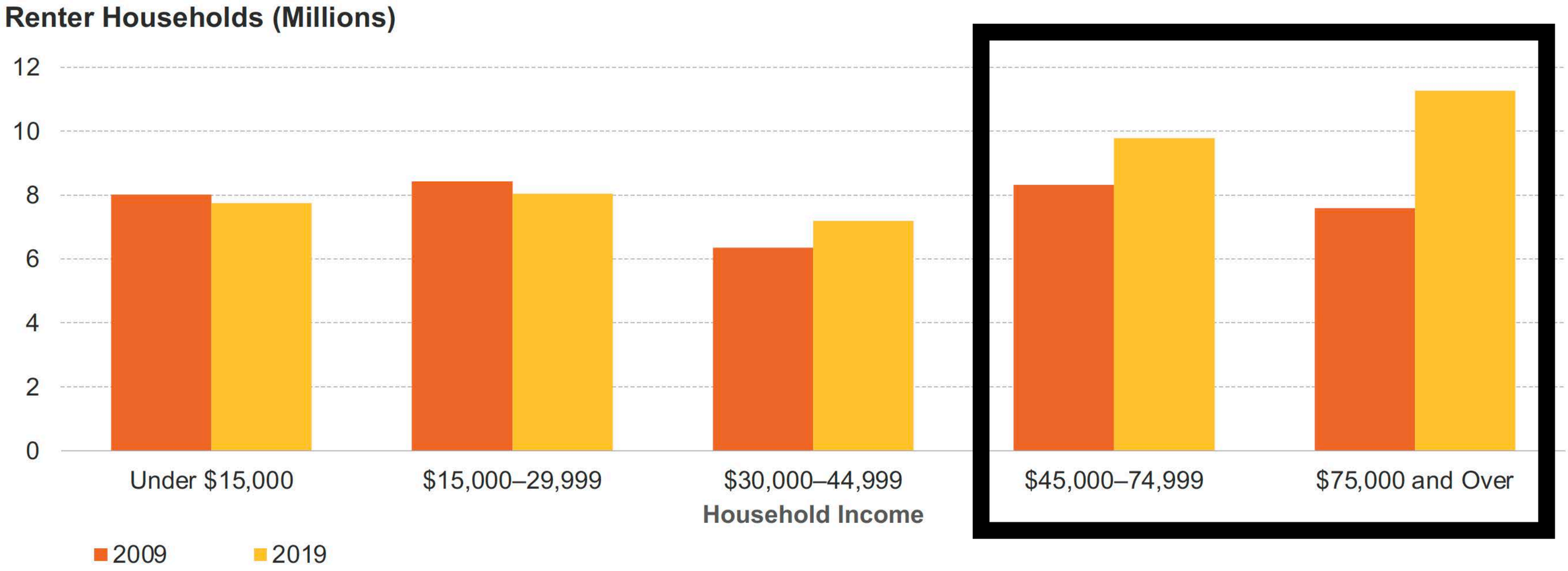
Commercial Challenges



Commercial Challenges: E-Commerce

- E-commerce has been rising over the past few decades.
- Advancements in technology and the internet have paved the way for online shopping.
- E-commerce logistics and supply chain management improvements have significantly contributed to the on-line shopping experience.
- Companies have invested heavily in developing efficient warehousing, inventory management, and delivery solutions.
- Automation has streamlined orders, reduced delivery times, and enhanced overall customer satisfaction.
- COVID-19 was a significant catalyst for e-commerce growth, further impacting traditional retail developments.

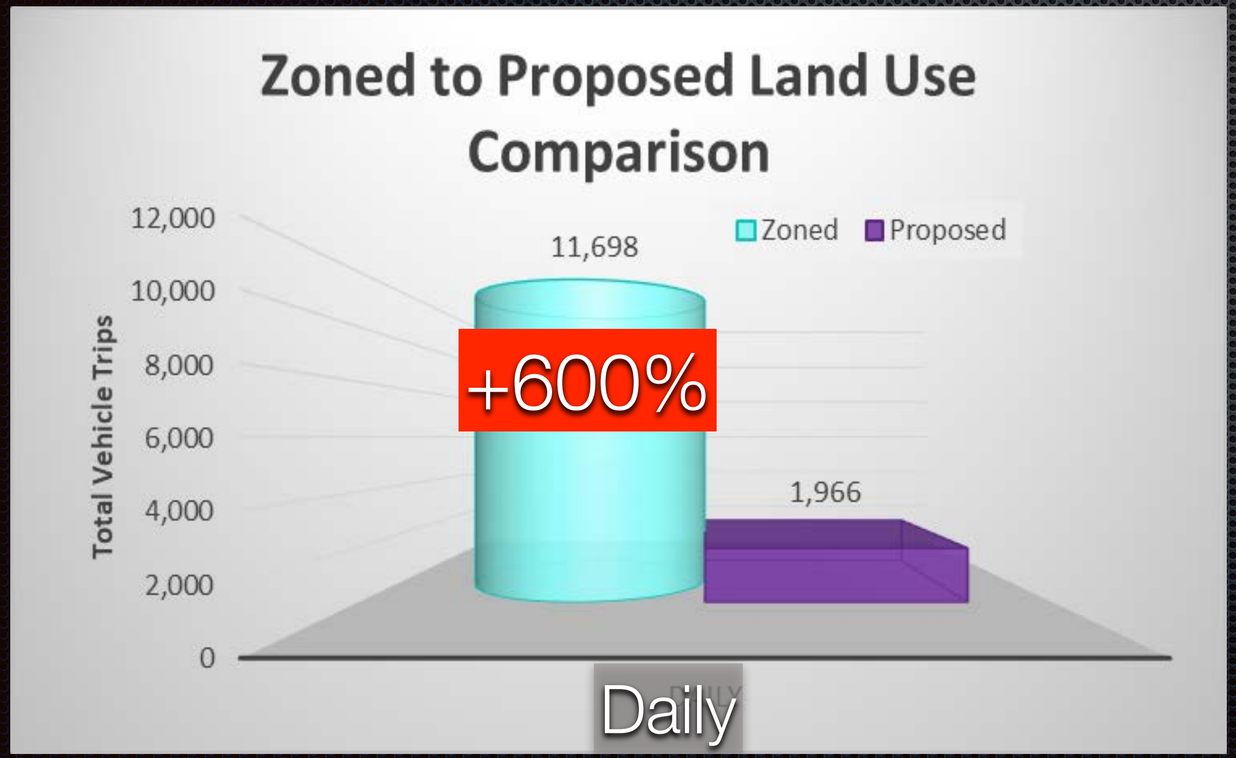
Figure 4: Higher-Income Households Have Driven Most of the Recent Growth in Renters

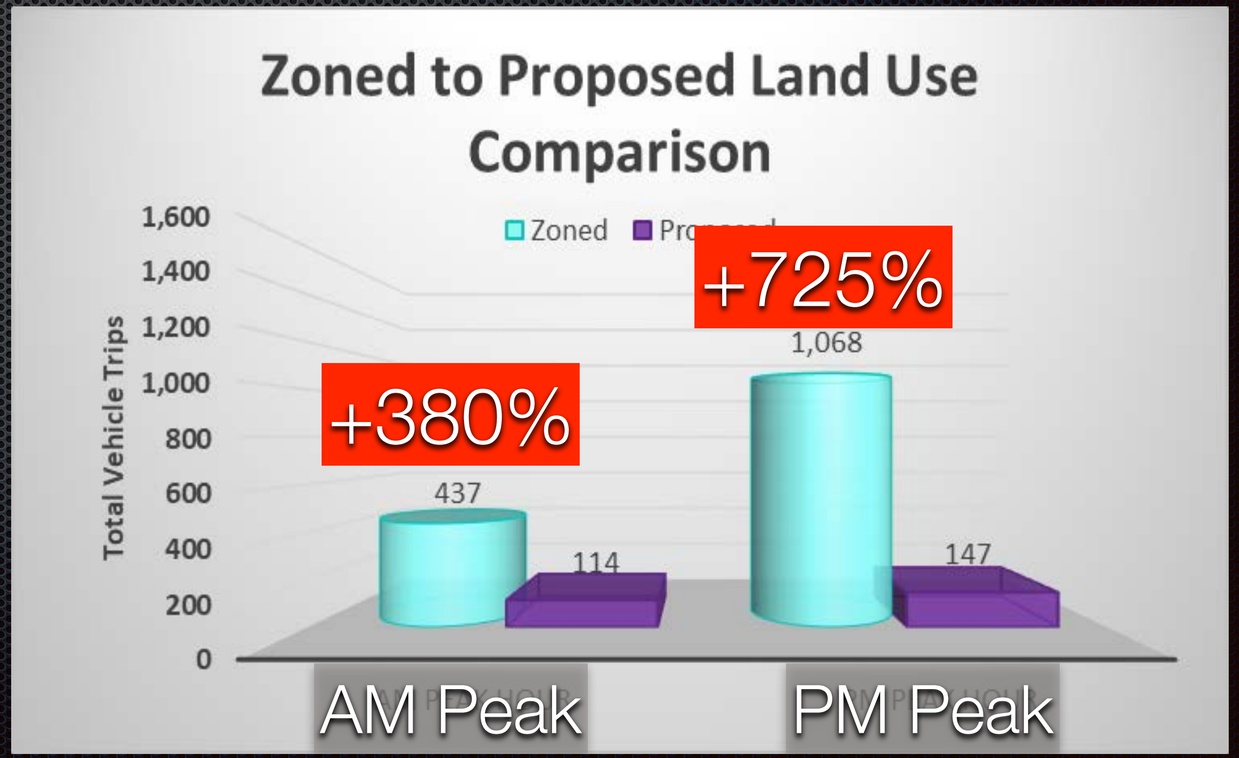


Note: Incomes are adjusted for inflation using the CPI-U for All Items.
Source: JCHS tabulations of US Census Bureau, American Community Survey 1-Year Estimates via IPUMS USA, University of Minnesota.

Trip Generation Comparison

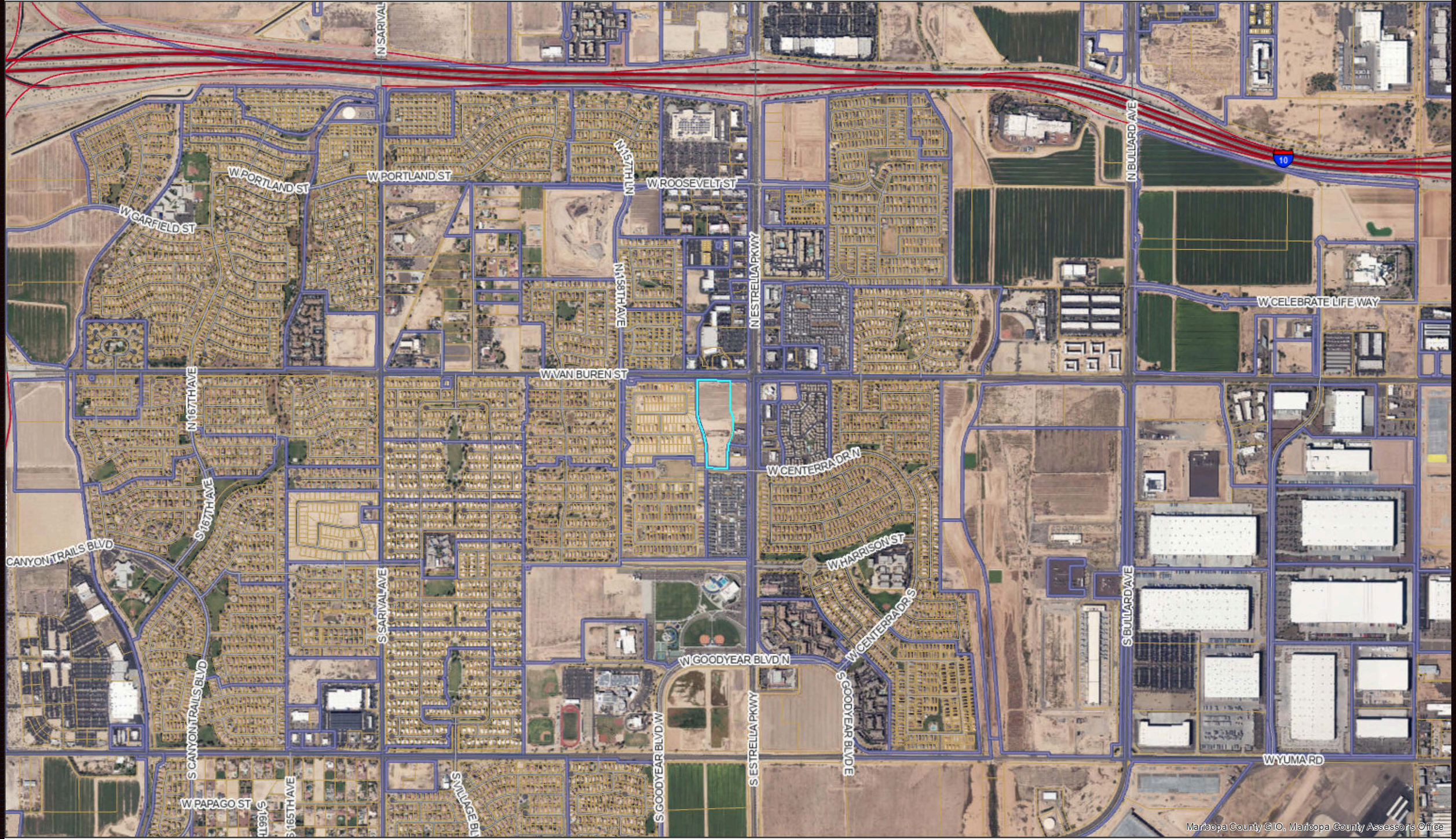
Land Use	ITE LUC	Size	Units	Weekday Trips						
				Daily Total	AM Peak Hour			PM Peak Hour		
					In	Out	Total	In	Out	Total
Zoned: Shopping Plaza with Supermarket	821	123.800	KSF	11,698	271	166	437	513	555	1,068
Proposed: Single Family Rental Units	220	295	Units	1,966	27	87	114	93	54	147
Total Difference				**-9,732**	**-244**	**-79**	**-323**	**-420**	**-501**	**-921**



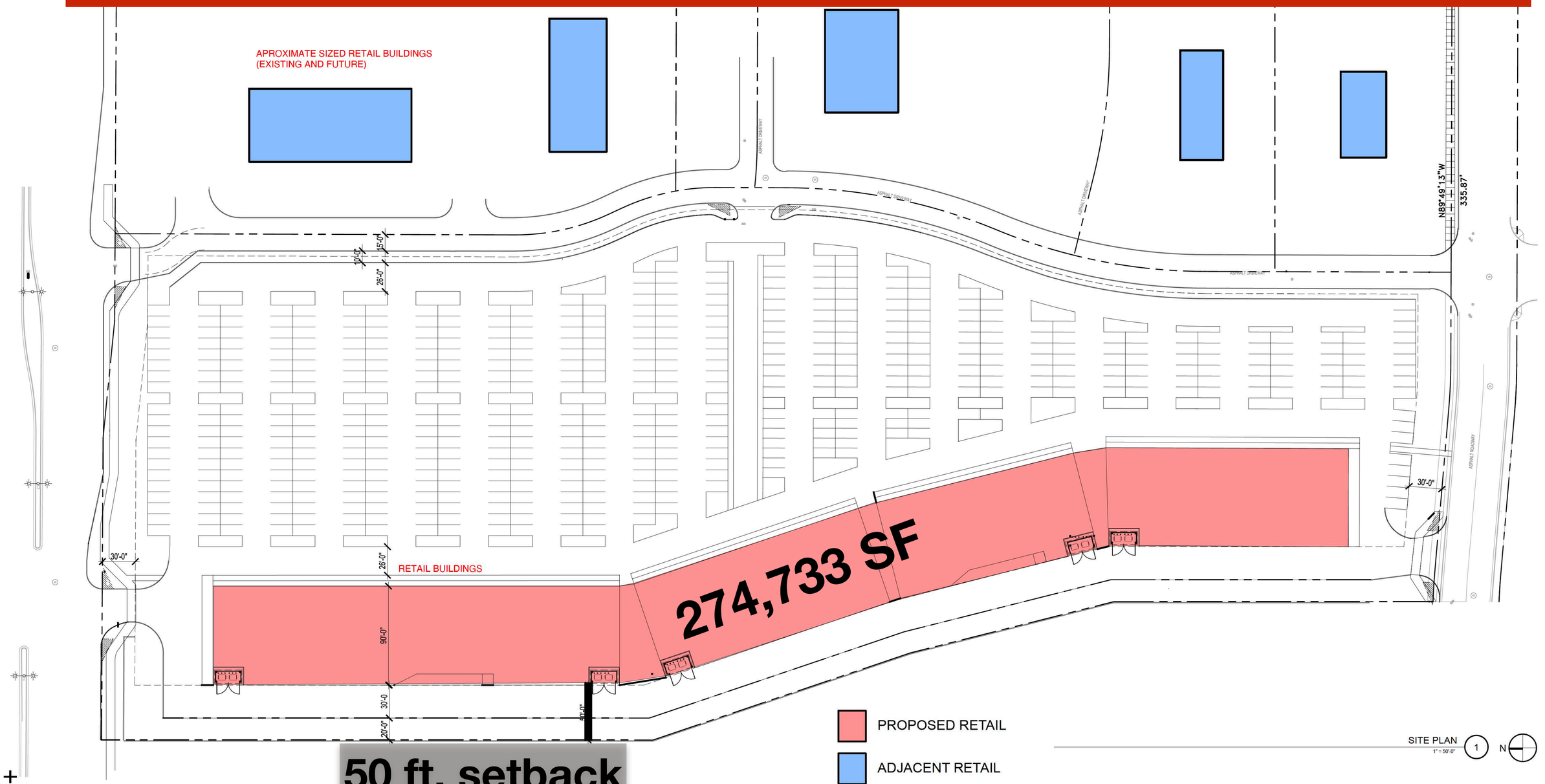



STATLER

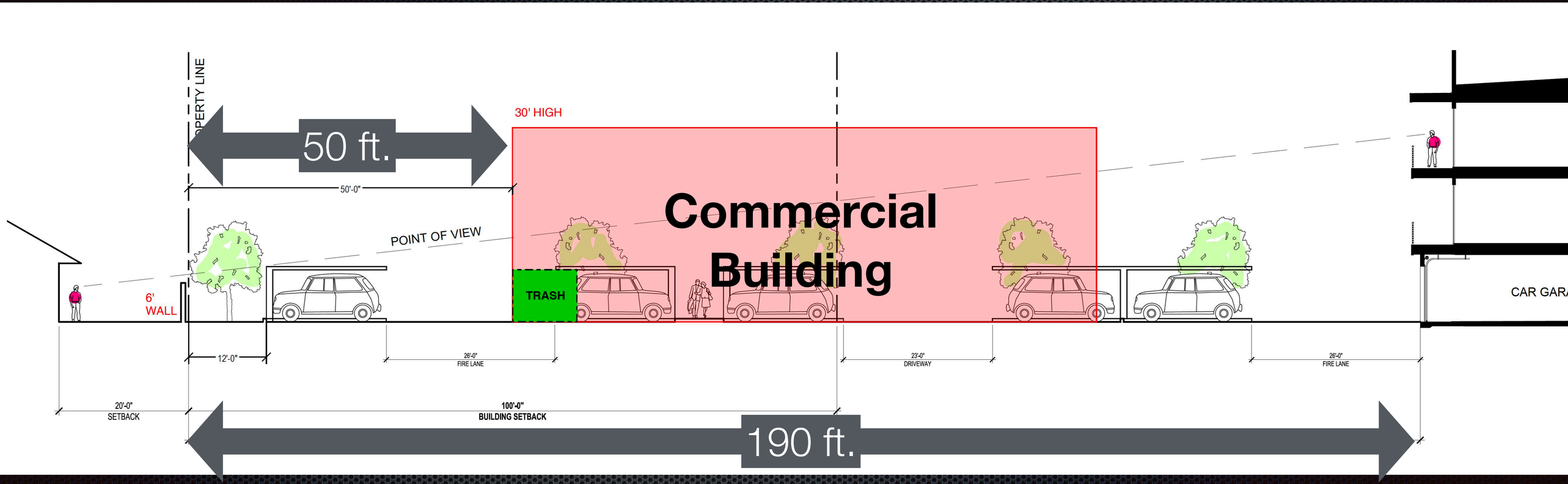
Request City Council’s approval in accordance with Staff’s Recommendation.


N SARIVAL
W PORTLAND ST
W GARFIELD ST
N 157TH LN
W ROOSEVELT ST
N 158TH AVE
N ESTRELLA PKWY
N BULLARD AVE
10
W CELEBRATE LIFE WAY
W VAN BUREN ST
N 167TH AVE
S 167TH AVE
CANYON TRAILS BLVD
W CENTERRA DR N
W HARRISON ST
S SARIVAL AVE
W CENTERRA DR S
S BULLARD AVE
W GOODYEAR BLVD N
S CANYON TRAILS BLVD
S GOODYEAR BLVD W
S ESTRELLA PKWY
S GOODYEAR BLVD E
W YUMA RD
W PAPAGO ST
S 165TH AVE
S 166TH
S VILLAGE BL
Maricopa County GIO, Maricopa County Assessors Office

Commercial Impact on Single-Family



Commercial Impact on Single-Family

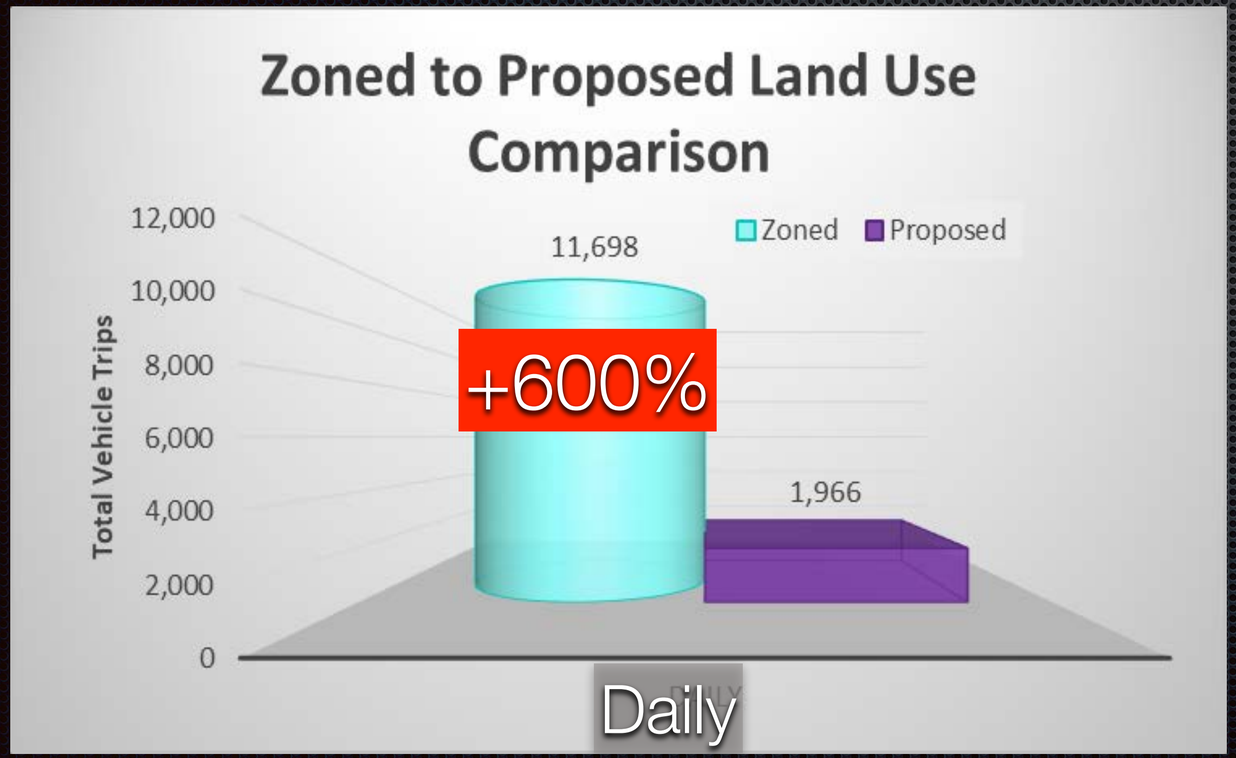


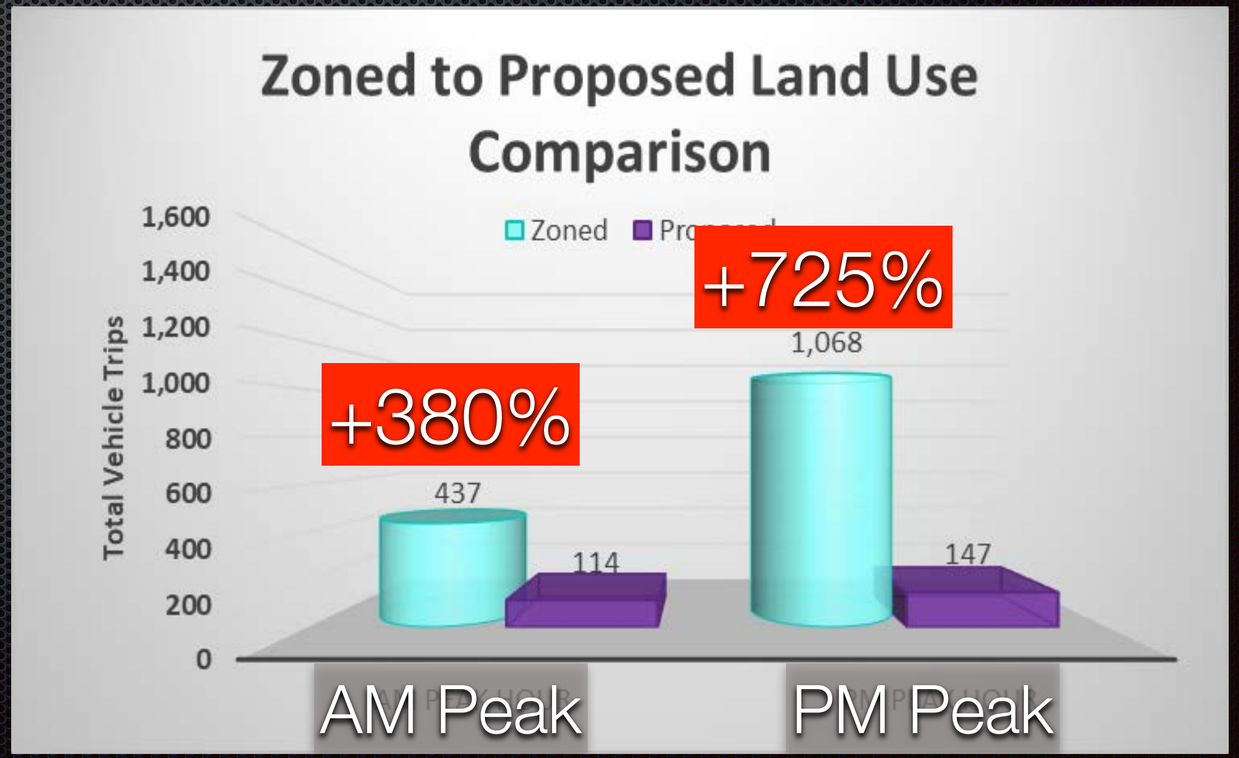
Commercial Impact on Single-Family



Trip Generation Comparison

Land Use	ITE LUC	Size	Units	Weekday Trips						
				Daily Total	AM Peak Hour			PM Peak Hour		
					In	Out	Total	In	Out	Total
Zoned: Shopping Plaza with Supermarket	821	123.800	KSF	11,698	271	166	437	513	555	1,068
Proposed: Single Family Rental Units	220	295	Units	1,966	27	87	114	93	54	147
Total Difference				**-9,732**	**-244**	**-79**	**-323**	**-420**	**-501**	**-921**





ITEM #: 11.
DATE: 09/25/2023
AI #:1647

CITY COUNCIL ACTION REPORT

SUBJECT: AMENDMENT TO THE ZONING ORDINANCE TO ESTABLISH A NEW BUSINESS PARK ZONING DISTRICT

STAFF PRESENTER(S): Steve Careccia, Planning Manager

SUMMARY

This is a staff-initiated request to amend Article 3-3 (Commercial Districts) of the city of Goodyear Zoning Ordinance with the establishment of a new Business Park zoning district.

STRATEGIC PLAN ALIGNMENT



RECOMMENDATION

1. ADOPT RESOLUTION NO. 2023-2345 DECLARING AS PUBLIC RECORD THAT CERTAIN DOCUMENT REFERRED TO AND INCORPORATED IN ORDINANCE NO. 2023-1592 FILED WITH THE CITY CLERK AMENDING PROVISIONS IN ARTICLE 3-3 (COMMERCIAL DISTRICTS) OF THE GOODYEAR ZONING ORDINANCE TO ADD A NEW BUSINESS PARK DISTRICT (BPD).

2. ADOPT ORDINANCE NO. 2023-1592 AMENDING CITY OF GOODYEAR ZONING ORDINANCE ARTICLE 3-3 (COMMERCIAL DISTRICTS) TO ESTABLISH A NEW BUSINESS PARK ZONING DISTRICT (BPD); 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. (Steve Careccia, Planning Manager)

FISCAL IMPACT

There is no direct budget impact associated with the approval of this Zoning Ordinance text amendment.

BACKGROUND AND PREVIOUS ACTIONS

The City of Goodyear Zoning Ordinance regulates the development of all land within the city. Regulations set forth in the Zoning Ordinance may be amended when deemed necessary to best serve the public interest, health, comfort, convenience, safety, and general welfare of the citizens of the city. The current Zoning Ordinance was originally adopted by the City Council in May 1999 and has been the subject of a number of amendments since that time.

In response to current industrial development trends along with feedback from developers and citizens, the City Council directed staff to create a new zoning district focused on commercial and employment uses not needing cross dock or significant distribution-type facilities. Such employment uses would generally consist of public-facing storefronts, offices and open spaces, with loading areas and dock doors placed within internalized courts screened from public view. This zoning district would be appropriate within transitional areas, such as between higher intensity industrial areas and commercial areas, and within proximity to residential uses, if appropriately buffered.

The Planning and Zoning Commission considered this item at a public hearing held on September 13, 2023 and unanimously voted (5-0) to forward a recommendation of approval to the City Council.

STAFF ANALYSIS

Current Policy:

The following policies contained within the City of Goodyear Zoning Ordinance and Subdivision Regulations are applicable and relevant to this requested text amendment:

> Article 1, Section 1-3-1 (Amendments), of the Zoning Ordinance establishes the process for the review and approval of text amendments to the Zoning Ordinance. Amendments must be reviewed by the Planning and Zoning Commission and approved by the City Council through the public hearing process.
>
> Article 3-3 (Commercial Districts) of the Zoning Ordinance establishes zoning districts that provide for retail, service and employment uses in furtherance of the city's economic base.

Details of the Request:

This request for text amendment is to establish a new Business Park zoning district in accordance with City Council direction. To achieve this intent, the text amendment proposes a new zoning district within the commercial zoning districts section of the Zoning Ordinance. The new zoning district will include a mix of commercial and employment uses that will be subject to the development and design standards applicable to the city's existing commercial zoning districts. Additionally, new standards proposed with this amendment will ensure an attractive environment for these uses, within a campus-like setting, and will promote an environment compatible with nearby, existing developed areas.

With this amendment, the following revisions to the Zoning Ordinance are proposed:

> Creation of new business park zoning district to be established as Section 3-3-6 Business Park (BPD) District;
>
> Within Section 3-3-6-C (Principal Permitted Uses), establish the listed uses of structures

or land within the Business Park zoning district.

Within Section 3-3-6-E (Development Regulations), establish standards applicable to all new development within the Business Park zoning district to ensure conformance with the intent of the district.

Renumbering of current Section 3-3-6 (Commercial District Standards) as new Section 3-3-7 (Commercial District Standards) and amending the newly renumbered Section 3-3-7 (Commercial Districts Standards), by revising Figure 8, in paragraph A, to add a column for the dimension requirements for the Business Park (BPD) District.

Evaluation Criteria:

As previously noted, Section 1-3-1 (Amendments) of the Zoning Ordinance provides evaluation criteria for text amendments. The criteria and accompanying staff analysis (*italics*) are provided below:

A. Documentation indicating inconsistencies in terms of the Ordinance or problems and/or conflicts in implementation of specific sections of the Ordinance that will be resolved by the amendment;

The city currently has two industrial zoning districts – I-1 (Light Industrial) and I-2 (General Industrial). The amendment is intended to provide an additional zoning district suitable for those commercial and employment uses that do not require cross dock or major distribution-type facilities. Loading areas, truck docks and service bays will be relegated to internalized courts, which will help reduce operational impacts, such as noise and truck traffic, and aesthetic impacts, such as the visible storage of trailers and goods, on adjoining properties and the public.

B. Whether amendment is needed to respond to changes in the law, statutory or case law;

This text amendment is not in response to any changes in law, statutory or case law.

C. Whether amendment is needed to address zoning and/or development issues or to improve processes for addressing such issues;

As noted herein, the intent of the amendment is to create an additional zoning district that will promote the development of commercial and employment uses not needing cross dock or other major distribution-type facilities, and that will be compatible with existing developed areas. To achieve this intent, the amendment proposes several development standards that will be applicable to all land uses within the proposed Business Park zoning district. Such standards shall include:

1. Prohibition of cross dock facilities. Instead, those uses needing loading docks and bay doors, for example, will be permitted to place those facilities on only one side of the building, within internalized courts screened from adjoining properties;

2. Requirement for all equipment and accessory structures, such chillers, silos and generators, to be located within internalized courts. Roof top equipment exceeding the height of the building will be prohibited;

3. Requirement for five percent of the net site area to be developed as recreational open space for use by employees and customers;

4. Office and storefronts facing the primary street instead of being placed internal to the site, out of public view; and

5. Requirement for additional buffering and tree plantings when adjacent to a residential use (resulting in a minimum 40-foot buffer width).

D. Whether amendment will to promote implementation of goals and objections of the City's General Plan;

Standard 37 of the General Plan states light industrial uses such as warehousing and distribution centers are appropriate in the Business and Commerce land use if appropriately buffered from residential uses. The proposed Business Park zoning district is intended to correlate with the Business and Commerce land use. However, to provide an alternative zoning district that fosters commercial and employment uses complementary to transitional zones or nearby residential uses, the proposed Business Park zoning district will prohibit cross dock and other major distribution-type facilities. As such, larger warehouse and distribution buildings will choose to locate within the city's Light Industrial or General Industrial zoning districts. Additional buffering will also be required if a property in the Business Park zoning district is located adjacent to residential uses.

Standard 38 of the General Plan states uses that create significant noise, glare, odors, or other adverse impacts should be located in the Industrial land use category. The proposed Business Park zoning district should provide a viable zoning option for certain commercial and employment uses desiring to locate in transitional areas or within proximity to residential areas.

Standard 43 and Standard 48 of the General Plan state general industrial uses and those land uses that create significant noise, odors, etc. should be separated and buffered from residential uses and commercial assembly, entertainment and retail uses. The proposed Business Park zoning district is intended to function as an appropriate buffer between such higher and lower intensity uses.

E. Any other factors related to the impact of the amendment on the general health, safety or welfare of the citizens of the City and the general public.

The text amendment should not have any adverse impacts on the general health, safety or welfare of citizens or the general public. Rather, it should promote these elements by providing an additional zoning district for certain commercial and employment uses considered appropriate within transitional areas or in areas within proximity of residential uses.

Public Participation:

This Zoning Ordinance text amendment requires public hearings before the Planning & Zoning Commission and City Council. Notice for these public hearings included a full-size legal notice published in the Arizona Republic on August 25, 2023. Information on this text amendment was also posted to the current development applications section of the city's website.

The Planning and Zoning Commission considered this item at a public hearing held on September 13, 2023. The Commission received a presentation from staff and then unanimously voted (5-0) to forward a recommendation of approval to the City Council. There was no opposition to the item presented at the public hearing.

Attachments

1. Resolution

1a. Resolution Exhibit A

2. Ordinance

Presentation

RESOLUTION NO. 2023-2345

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, DECLARING AS PUBLIC RECORD THAT CERTAIN DOCUMENT REFERRED TO AND INCORPORATED IN ORDINANCE NO. 2023-1592 FILED WITH THE CITY CLERK AMENDING PROVISIONS IN ARTICLE 3-3 (COMMERCIAL DISTRICTS) OF THE GOODYEAR ZONING ORDINANCE TO ADD A NEW BUSINESS PARK DISTRICT (BPD).

Be it resolved by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, as follows:

SECTION 1. DECLARATION OF PUBLIC RECORDS

That certain document titled "Zoning Ordinance Text Amendment Article 3-3 (Commercial Districts)," a copy of which is attached hereto as Exhibit A, is hereby declared a public record.

SECTION 2. PURPOSE

The aforementioned documents are declared public records in connection with the adoption of Ordinance 2023-1592.

SECTION 3. COPIES FILED WITH THE CITY CLERK

Either three paper copies or one paper copy and one electronic copy maintained in compliance with section A.R.S 44-7041 of each of the aforementioned documents being declared public records herein are ordered to remain on file with the City Clerk and to be available for public use and inspection during regular business hours.

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:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

EXHIBIT A

Zoning Ordinance Text Amendment to Article 3-3 (Commercial Districts)

City of Goodyear Zoning Ordinance Article 3 (Zoning Districts), Article 3-3 (Commercial Districts) is amended to renumber existing Section 3-3-6 (Commercial Districts Standards) as Section 3-3-7, to update the numbering of all existing references to renumbered section 3-3-7, to add new Section 3-3-6 (Business Park (BPD) District) and to amend Article 3-3 (Commercial Districts) Section 3-3-7 (Commercial Districts Standards), as renumbered by this ordinance, by revising Figure 8, in paragraph A:

§ 3-3-6 Business Park (BPD) District.

A. PURPOSE AND VISION.

1. The purpose of the Business Park (BPD) District is to provide an attractive environment for modern offices, light assembly, and warehouse development and to create employment and economic development opportunities in a campus-like setting. The standards promote development intended to create an environment compatible with nearby, existing developed areas.

2. The Business Park (BPD) District allows a mix of business and employment uses in a design-integrated development consisting of one or more buildings having an exterior appearance and pedestrian-friendly park-like walkability of a business park, with all loading docks, outdoor storage, and other higher intensity uses and activities occurring within internalized courts visible and accessible only from the interior of the development.

B. *LOCATION*. The Business Park (BPD) District may be located in one of the following areas:

1. On a site that is adjacent to or near an arterial or major non-residential collector street.

2. On a site that is adjacent to a rail line.

3. Near existing or proposed employment uses.

4. On a site that functions as a transition between commercial and industrial uses.

5. Adjacent to a residential use or district only if the physical location of the site allows for significant buffering and a project design that mitigates potential adverse effects of the Business Park (BPD) District on the residential use or district.

C. *PRINCIPAL PERMITTED USES*. Only listed use of **structures** or land shall be

permitted.

1. **Automobile Repair**, but excluding collision and body work.

2. Auto sales, leasing, and rental, from within an enclosed building, and with no more than three (3) vehicles displayed outdoors.

3. **Bar or cocktail lounge** subject to conditions or limitations set forth in Section 3-3-3(A)(8) of this Ordinance.

4. **Brewpub**, subject to the provisions of Section 4-2-15 of this Ordinance.

5. Business and professional offices.

6. Cultural facilities for the arts, such as dance, theater, art, music.

7. Data centers and chip making facilities.

8. Fine arts and crafts studios.

9. Governmental offices, libraries, auditoriums, and museums.

10. Indoor entertainment establishments and uses, including athletic facilities, health clubs, bowling alleys, electronic game centers and arcades, ice and roller rinks, miniature golf, performing arts centers, pool halls and theaters, but excluding adult bookstores, adult theaters, and adult live entertainment establishments.

11. Institutions of a religious, educational, or philanthropic nature.

12. **Manufacturing**, assembling, and processing.

13. Medical office.

14. **Microbrewery**, producing 15,000 barrels of beer or less per year subject to the provisions of Section 4-2-16 of this Ordinance.

15. Private business, professional, and trade schools.

16. Professional services including but not limited to ticket offices, bonding companies, brokerage firms, credit bureaus, credit unions, employment agency, messenger service, delivery services, public relations consultants, real estate office, title insurance companies, copying services, graphic design businesses, office equipment sales and repair, and travel bureaus.

17. Public utility offices.

18. **Restaurant**, excluding **drive-in** and **drive-through** facilities.

19. **Retail** stores with sales only, excluding **drive-through** facilities and **convenience uses**.

20. Scientific, research, and development laboratories, including those related to medical research.

21. Trades wholesales and sales, including plumbing, electrical, building materials and HVAC.

22. **Warehouse**, **wholesale**, or distribution facility with loading docks on only one side of each building (cross-dock buildings are prohibited).

23. Similar uses as determined by the Zoning Administrator.

D. *PERMITTED ACCESSORY USES*.

1. All accessory uses permitted in the C-2 General Commercial District.

2. Outdoor storage conducted within internalized courts, in an area enclosed and screened from view by a solid masonry wall on all sides, with no storage higher than the wall.

E. *DEVELOPMENT REGULATIONS*.

1. Buildings shall be oriented and designed with truck courts, loading docks, service bays, and bay doors on only one side of the building and facing internally to the site, within an internalized court screened by other onsite primary buildings, and not visible from development boundaries.

Intended Design Configuration



2. Development shall comply with the screening standards in the Development Standards for Commercial Districts set forth in Section 3-3-7(B)(7) of this

Ordinance, except to the extent those standards conflict with more stringent requirements set forth in this Section.

3. As more strictly applied herein, above ground structures and equipment, such as silos, generators, chiller units, storage tanks, and other similar accessory structures, shall be located within internalized courts adjacent to the primary buildings onsite and shall not exceed the height of the building. Such accessory uses and structures shall not be visible from adjacent properties or surrounding roadways.

4. Developments within the Business Park (BPD) District shall provide a minimum of five (5) percent of the net site area as recreational open space, in conformance with the following:

a. Recreational open space shall include plazas, open turf areas, landscaping, and amenities, such as game areas, exercise stations, seating, benches, and tables.

b. Shade shall be provided through a combination of trees and structures to ensure fifty (50) percent shade coverage.

c. Recreational open space shall be visible to surrounding properties and streets adjacent to the development.

d. Pedestrian scale lighting and security lighting shall be provided to ensure visibility during low light and nighttime hours.

e. Sidewalks and pathways shall connect recreational open space areas to other open spaces, building entrances and all employee and customer/visitor gathering areas.

f. For multi-phased developments, the required recreational open space shall be completed with the first phase of development, or in accordance with a phasing plan approved by the Zoning Administrator or designee.

g. Recreational open space may not be used as a stormwater retention or detention basin.

h. Recreational open space is included in the minimum fifteen (15) percent landscaping area requirement of Subsection 5-1-4.B.1.c.

5. Artificial turf shall be used for all turf areas.

6. Office and similar uses shall face the street that provides primary access or shall face a major collector or higher classification roadway.

7. Where a lot in the Business Park (BPD) District abuts a residential district or an existing residential use, the existing landscape buffer requirements of

Subsection 5-1-4.B.3.b shall be increased by an additional 25 feet, with a double row of trees planted within the buffer.

8. All principal uses shall take place within entirely enclosed buildings.

9. All uses are subject to Site Plan review.

10. Area, Setback and Height and related requirements shall conform with the standards for the District, as set forth in Commercial Districts standards, Subsection 3-3-7.

11. Off-Street Parking. Paved, screened parking, which may be covered, subject to setback standards, shall be provided in accordance with the requirements of Article 6, Parking and Loading.

12. Landscaping, Walls, Screening. Refer to Article 5, Property Improvements Standards.

13. Supplemental Regulations. Refer to Article 8, General Provisions.

City of Goodyear Zoning Ordinance Article 3 (Zoning Districts) Article 3-3 (Commercial Districts) Section 3-3-7 (Commercial Districts Standards), as renumbered by this ordinance, is amended by revising Figure 8, in paragraph A, to add a column for the dimension requirements for the Business Park (BPD) District, as follows (additions shown with double underlining):

COMMERCIAL DISTRICTS							
Districts		**C-O**	**C-1**	**C-2**	**CBD**	**PFD**	**BPD**
Minimum Net Site Area		6,000	10,000 (3)	10,000 (3)	None	None	20,000 (3)
Minimum Lot Width		60 ft.	150 ft. (3)	150 ft. (3)	None	None	150 ft. (3)
Maximum Height		30 ft.	30 ft.	56 ft.	75 ft.	40 ft	56 ft.
Maximum Building Coverage		50%	50%	50%	None	None	50%
Minimum Setbacks							
	Front	30 ft.	30 ft. (4)	30 ft. (2) (4)	None	None	30 ft. (2) (4)
	Side	20 ft. (1)	20 ft. (1)	N/A (1)	None	None	N/A (1)
	Rear	20 ft. (1)	20 ft. (1)	N/A (1)	None	None	N/A (1)
	Street side	30 ft.	30 ft.	30 ft. (2)	30 ft.	30 ft.	30 ft. (2)

1 Buildings within a district adjacent to any residential use or district are subject to additional minimum building setbacks as defined in Subsection B.6(c).

2 Buildings with heights in excess of 30 ft. shall provide 1 foot of additional setback for each foot of building height over 30 ft.

3 Except as provided herein, minimum net site area and lot width requirements do not apply for lots within a unified commercial development, which is a development intended for three or more businesses, so long as the development has permanent cross-access, shared parking and access easements, in a form approved by the City Attorney or his/her designee, necessary to meet minimum parking and maneuvering requirements and any other applicable requirements. If there are conflicts between this exception and other requirements in the Zoning Ordinance pursuant to which a site would be required to meet or exceed the minimum net site area or minimum lot width requirements, this exception shall not apply.

4 Except as provided herein, the setback for lots within a unified commercial development, which is intended for three or more businesses with permanent cross access and shared parking easements, shall be measured from the nearest public streets. If there are conflicts between this exception and other requirements in the Zoning Ordinance pursuant to which a site would be required to meet or exceed the minimum setbacks, this exception shall not apply.

ORDINANCE NO. 2023-1592

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AMENDING CITY OF GOODYEAR ZONING ORDINANCE ARTICLE 3-3 (COMMERCIAL DISTRICTS) TO ESTABLISH A NEW BUSINESS PARK ZONING DISTRICT (BPD); 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 city of Goodyear Zoning Ordinance regulates the development of all land within the city. Regulations set forth in the Zoning Ordinance may be amended when deemed necessary to best serve the public interest, health, comfort, convenience, safety, and general welfare of the citizens of the city; and

WHEREAS, the current Zoning Ordinance was originally adopted by the City Council in May 1999 and has been the subject of a number of amendments since that time; and

WHEREAS, Article 1, Section 1-3-1, of the Zoning Ordinance establishes the process for the review and approval of text amendments to the Zoning Ordinance. Amendments must be reviewed by the Planning and Zoning Commission and approved by the City Council through the public hearing process; and

WHEREAS, the Mayor and Council of the city of Goodyear find that there is an existing unmet need for business park zoning in the City; and

WHEREAS, the proposed Business Park zoning district will accommodate the needs for certain commercial and employment uses, with requirements that will ensure an attractive environment for such uses, and will create employment and economic development opportunities in a campus-like setting, and will promote a development environment compatible with nearby, existing developed areas; and

WHEREAS, public notice that this text amendment 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, and at that hearing the Commission voted 5-0 to recommend aproval of the proposed text amendment; and

WHEREAS, public notice that this text amendment was 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 that the interests of the City, its citizens and businesses are best served with the creation of a new Business Park zoning district; 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. CREATION OF NEW BUSINESS PARK (BPD) ZONING DISTRICT

City of Goodyear Zoning Ordinance Article 3-3 (Commercial Districts) is amended by the creation of a new Business Park (BPD) zoning district, as set forth in that certain document titled, "Zoning Ordinance Text Amendment to Article 3-3 (Commercial Districts)", which document was declared a public record by Resolution No. 2023-2345 and which is referred to, adopted, and made part hereof as if fully set forth in the Ordinance.

SECTION 2. AMENDING SECTIONS OF ARTICLE 3-3 (COMMERCIAL DISTRICTS) OF THE CITY OF GOODYEAR ZONING ORDINANCE

City of Goodyear Zoning Ordinance Article 3 (Zoning Districts), Article 3-3 (Commercial Districts) is amended to renumber existing Section 3-3-6 (Commercial Districts Standards) as Section 3-3-7, to update the numbering of all existing references to renumbered Section 3-3-7, to add new Section 3-3-6 (Business Park (BPD) District), and to amend Article 3-3 (Commercial Districts) Section 3-3-7 (Commercial Districts Standards), as renumbered by this ordinance, by revising Figure 8, in paragraph A, as set forth in that certain document titled, "Zoning Ordinance Text Amendment to Article 3-3 (Commercial Districts)", which document was declared a public record by Resolution No. 2023-2345 and which is referred to, adopted, and made part hereof as if fully set forth in the Ordinance.

SECTION 3. 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 4. 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 5. EFFECTIVE DATE

This Ordinance shall become effective as prescribed by law.

SECTION 6. 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 7. 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:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

Business Park Zoning District
Zoning Ordinance Text Amendment

City Council

September 25, 2023

Background

BUSINESS PARK ZONING DISTRICT

- Zoning Ordinance regulates (1999)
- Amendments for general welfare, health, safety
- Current development trends
- Available zoning districts (Commercial/Industrial)
- Feedback from community
  - Proper location
  - Appropriate development standards
  - More options to develop

Direction to Staff

BUSINESS PARK ZONING DISTRICT

- Direction from Council
  - Create 'business park' zoning district
  - Support certain commercial / employment uses
  - See building fronts, not dock doors
  - Internalized courts (no cross-dock facilities)
  - Appropriate within transitional areas & within proximity to residential
- Worked with outside counsel to create new zoning district
- Business Park (BPD) – Article 3-3 (Commercial Districts)
  - Purpose
  - Permitted Uses
  - Development standards

Purpose & Intended Locations

BUSINESS PARK ZONING DISTRICT

- Mix of business and employment uses
- Attractive environment
- Campus-like setting with open space
- Loading docks, equipment & storage within internalized courts
- Compatible with existing development

- Adjacent to arterial or non-residential collector or rail line
- Near existing/proposed employment
- Transitional areas between commercial & industrial
- Residential, with buffers & context-sensitive design

District Standards

BUSINESS PARK ZONING DISTRICT

- Internalized courts for loading docks, service bays, bay/roll-up doors
- Screened storage
- Above ground equipment within internalized courts
- Open space (5%) – visible, pedestrian focus/connected, shaded
- Buildings face street
- Increase of minimum buffer from 15 feet to 40 feet (residential)
- Max building height – 56 feet
- Increased setback next to residential for taller buildings

Intended Design

BUSINESS PARK ZONING DISTRICT



SOURCE: URBAN LOGISTICS 10 1.23

Public Review

BUSINESS PARK ZONING DISTRICT

- Amendments – Public Hearing process
- Notification for public hearings (legal notice)
- Notice to Developer Forum
- Website – Current Development Applications
- No opposition to date

Staff Findings & Recommendation

BUSINESS PARK ZONING DISTRICT

- Promotes direction from City Council
- Provides additional opportunity for certain commercial/employment uses
- Promotes implementation of the General Plan
- Promote the general health, safety & welfare the citizens and the public
- P&Z Commission Sept 13 – No opposition
- Staff & Commission recommend approval


CITY OF
Goodyear

ITEM #: 12.
DATE: 09/25/2023
AI #:1648

CITY COUNCIL ACTION REPORT

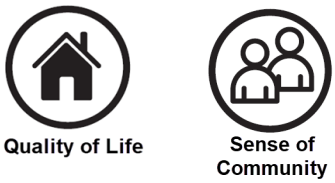
SUBJECT: AMENDMENT TO ZONING ORDINANCE AND SUBDIVISION REGULATIONS RELATED TO FREEWAY SOUND ATTENUATION

STAFF PRESENTER(S): Steve Careccia, Planning Manager

SUMMARY

This is a staff-initiated request to amend Articles 2 and 9 of the Zoning and Chapter 15 of the Subdivision Regulations to bring the city's sound attenuation requirements into conformance with requirements established by the Arizona Department of Transportation.

STRATEGIC PLAN ALIGNMENT



RECOMMENDATION

1. ADOPT RESOLUTION NO. 2023-2341 DECLARING AS PUBLIC RECORDS THOSE CERTAIN DOCUMENTS REFERRED TO AND INCORPORATED IN ORDINANCE 2023-1589 FILED WITH THE CITY CLERK AMENDING PROVISIONS IN THE GOODYEAR ZONING ORDINANCE AND THE SUBDIVISION REGULATIONS IN THE GOODYEAR CITY CODE RELATED TO NOISE ATTENUATION REQUIREMENTS NEAR FREEWAYS.

2. ADOPT ORDINANCE NO. 2023-1589 AMENDING CITY OF GOODYEAR ZONING ORDINANCE ARTICLE 2 (DEFINITIONS) AND ARTICLE 9-1 (FREEWAY DEVELOPMENT OVERLAY DISTRICT) AND CITY OF GOODYEAR CODE OF ORDINANCES CHAPTER 15 (SUBDIVISION REGULATIONS) TO ADD DEFINITIONS AND CHANGE THE EXTERIOR SOUND ATTENUATION REQUIREMENT FOR DWELLING UNITS AND NOISE SENSITIVE USES TO SIXTY-SEVEN (67) DECIBELS; 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. (Steve Careccia, Planning Manager)

FISCAL IMPACT

There is no direct budget impact associated with the approval of this Zoning Ordinance text amendment.

BACKGROUND AND PREVIOUS ACTIONS

The City of Goodyear Zoning Ordinance regulates the development of all land within the city. Regulations set forth in the Zoning Ordinance may be amended when deemed necessary to best serve the public interest, health, comfort, convenience, safety, and general welfare of the citizens of the city. The current Zoning Ordinance was originally adopted by the City Council in May 1999 and has been the subject of a number of amendments since that time. Portions of the Zoning Ordinance and the subdivision regulations codified in Chapter 15 of the Goodyear Code of Ordinances (the "Subdivision Regulations") regarding freeway attenuation standards were inconsistent with standards adopted by the Arizona Department of Transportation (ADOT) Noise Abatement Requirements (May 2017). The purpose of this text amendment is to bring City standards into conformance with ADOT standards. The City Council will also be asked to amend the Subdivision Regulations to bring them into conformance with ADOT standards as well.

The Planning and Zoning Commission considered the Zoning Ordinance text amendment portion of this request at a public hearing held on September 13, 2023 and unanimously voted (5-0) to forward a recommendation of approval to the City Council.

STAFF ANALYSIS

Current Policy:

The following policies contained within the city of Goodyear Zoning Ordinance and Subdivision Regulations are applicable and relevant to this requested text amendment:

> Article 1, Section 1-3-1 (Amendments), of the Zoning Ordinance establishes the process for the review and approval of text amendments to the Zoning Ordinance. Amendments must be reviewed by the Planning and Zoning Commission and approved by the City Council through the public hearing process.
>
> Article 2-2 (Definitions) of the Zoning Ordinance defines certain words and terms used throughout the ordinance. This text amendment proposes to add certain definitions.
>
> Article 9-1 (Freeway Development Overlay District) of the Zoning Ordinance establishes requirements for appropriate onsite improvements to enhance the livability of properties adjacent to freeway corridors.
>
> Section 15-1-2 (Definitions) of the Subdivision Regulations defines certain words and terms used throughout the regulations. This text amendment proposes to add certain definitions.
>
> Section 15-4-4 (Required improvements subdivisions) of the Subdivision Regulations establishes the minimum acceptable standards for subdivision improvements and the procedures for the review and approval of engineering plans.

Details of the Request:

This request for text amendment is to modify certain definitions and standards related to

freeway development standards for sound attenuation. To achieve this intent, the text amendment proposes the following revisions:

Zoning Ordinance Article 2-2 (Definitions): Add new definitions for “Decibel (dB)”, “Decibel, A-Weighted Scale (dBA)”, “Freeway”, “Leq”, and “Noise Sensitive Uses”;

Zoning Ordinance Article 9-1 (Freeway Development Overlay District): Remove references to specific freeways (I-10 and Loop 303) in favor of a more general reference to freeways, to include future freeways and other controlled access highways, such as the I-11 and SR 30; revise references to the allowed maximum exterior noise level from 64 dBA to 67 dBA;

Subdivision Regulations Section 15-1-2 (Definitions): Add new definitions for “DECIBEL (dB)”, “DECIBEL, A-WEIGHTED SCALE (dBA)”, “FREEWAY”, “Leq”, and “NOISE SENSITIVE USES”; and

Subdivision Regulations Section 15-4-4 (Required improvements subdivision): Remove references to specific freeways (I-10 and Loop 303) in favor of a more general reference to freeways, to include future freeways and other controlled access highways, such as the I-11 and SR 30; revise references to the allowed maximum exterior noise level from 64 dBA to 67 dBA.

Evaluation Criteria:

As previously noted, Section 1-3-1 (Amendments) of the Zoning Ordinance provides evaluation criteria for text amendments. The criteria and accompanying staff analysis (*italics*) are provided below:

A. Documentation indicating inconsistencies in terms of the Ordinance or problems and/or conflicts in implementation of specific sections of the Ordinance that will be resolved by the amendment;

The amendment is intended to bring the city’s sound attenuation requirements, as established in both the Zoning Ordinance and Subdivision Regulations, into conformance with those standards established by ADOT. Currently, city standards set a maximum exterior noise level of 64 dBA for residential and other noise sensitive uses within 500 feet of a freeway. ADOT, in accordance with Federal Highway Administration guidelines, establishes a maximum exterior noise standard of 67 dBA. While the ADOT noise standard is higher compared to the city noise standard, it has been noted that a 1-2 dB increase in noise is generally considered not perceptible to the human ear within an environment with noise, and not until an increase of 3 dB is a minimal change perceived (ADOT). As such, the amendment will provide for consistency with ADOT standards, which will provide greater clarity for developers and homebuilders with projects near freeway corridors, while not resulting in any significantly perceptible increase in noise for residents residing in the area.

B. Whether amendment is needed to respond to changes in the law, statutory or case law;

This text amendment is not in response to any changes in law, statutory or case law. As previously noted, the purpose of the amendment is to bring city standards into conformance with ADOT standards.

C. Whether amendment is needed to address zoning and/or development issues or to improve processes for addressing such issues;

With this text amendment, an inconsistency with established ADOT standards will be rectified.

D. Whether amendment will to promote implementation of goals and objections of the City's General Plan;

Standard 28 of the General Plan states residential development adjacent to freeways should utilize significant buffers, with the intent to lessen the impact of freeway related noise on residents. Adhering to sound attenuation standards as established by the City and ADOT will also help mitigate freeway noise.

E. Any other factors related to the impact of the amendment on the general health, safety or welfare of the citizens of the City and the general public.

The text amendment should not have any adverse impacts on the general health, safety or welfare of citizens or the general public. It will not result in any significantly perceptible increase in noise and will promote consistency with ADOT standards. Such consistency will provide greater clarity for developers and residents within the vicinity of an existing or proposed freeway corridor.

Public Participation:

This Zoning Ordinance text amendment requires public hearings before the Planning & Zoning Commission and City Council. Notice for these public hearings included a full-size legal notice published in the Arizona Republic on August 25, 2023. Information on this text amendment was also posted to the current development applications section of the city's website.

The Planning and Zoning Commission considered the Zoning Ordinance text amendment portion of this item at a public hearing held on September 13, 2023. The Commission received a presentation from staff and then unanimously voted (5-0) to forward a recommendation of approval to the City Council. There was no opposition to the item presented at the public hearing.

Attachments

1. Resolution
1a. Resolution Exhibit A
1b. Resolution Exhibit B
2. Ordinance
Presentation

RESOLUTION NO. 2023-2341

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, DECLARING AS PUBLIC RECORDS THOSE CERTAIN DOCUMENTS REFERRED TO AND INCORPORATED IN ORDINANCE 2023-1589 FILED WITH THE CITY CLERK AMENDING PROVISIONS IN THE GOODYEAR ZONING ORDINANCE AND THE SUBDIVISION REGULATIONS IN THE GOODYEAR CITY CODE RELATED TO NOISE ATTENUATION REQUIREMENTS NEAR FREEWAYS.

Be it resolved by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, as follows:

SECTION 1. DECLARATION OF PUBLIC RECORDS

That certain document titled "Zoning Ordinance Text Amendment to Article 2-2 (Definitions) and Article 9-1 (Freeway Development Overlay District)," a copy of which is attached hereto as Exhibit A, is hereby declared a public record.

That certain document titled "Code of Ordinances Text Amendment to Article 15 (Subdivision Regulations)," a copy of which is attached hereto as Exhibit B, is hereby declared a public record.

SECTION 2. PURPOSE

The aforementioned documents are declared public records in connection with the adoption of Ordinance 2023-1589.

SECTION 3. COPIES FILED WITH THE CITY CLERK

Either three paper copies or one paper copy and one electronic copy maintained in compliance with section A.R.S 44-7041 of each of the aforementioned documents being declared public records herein are ordered to remain on file with the City Clerk and to be available for public use and inspection during regular business hours.

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:

Darcie McCracken, City Clerk

APPROVED AS TO FORM:

Roric Massey, City Attorney

EXHIBIT A

Zoning Ordinance Text Amendment to Article 2-2 (Definitions) and Article 9-1 (Freeway Development Overlay District)

City of Goodyear Zoning Ordinance Article 2 (Definitions) Article 2-2 (Definitions) is amended to add new definitions of "Decibel (dB)," "Decibel, A weighted scale (dBA)," "L_{eq}," and "Noise sensitive uses" as follows:

> **Decibel (dB).** A unit used to measure the intensity of a sound by comparing it with a given level on a logarithmic scale.
>
> **Decibel, A-weighted scale (dBA).** The sound level, in decibels, measured using an electronic filter in a sound level meter which approximates the frequency response of the human ear.
>
> **Freeway.** The Papago Freeway (Interstate 10), the Loop 303 Freeway, the future Tres Rios Freeway (Arizona State Route 30), future Interstate 11, and any other future controlled-access highway or controlled-access highway modification located or to be located within the City.
>
> **L_{eq}.** The equivalent steady-state sound level which in a stated period of time contains the same acoustic energy as the time-varying sound level during the same time period.
>
> **Noise sensitive uses.** Schools, places of worship, childcare facilities, hospitals, nursing homes, libraries, and similar facilities determined pursuant to Section 9-1-2.

City of Goodyear Zoning Ordinance Article 9 (Special Districts) Article 9-1 (Freeway Development Overlay District) is amended as follows (with additions shown with double underline and deletions shown with ~~strikethrough~~):

> **§ 9-1-1 Purpose.**
>
> The purpose of this Overlay District is to provide the appropriate and necessary off-site and on-site improvements to protect and enhance the livability of properties near ~~the Papago~~ Freeways ~~(Interstate 10) and the Loop 303 Freeway~~ within the City of Goodyear. These Freeway corridors will have a significant impact on the surrounding land uses. Noise and traffic generated by these Freeways will impact residential land uses and other noise sensitive uses that may be constructed adjacent to the Freeway corridors.
>
> It is the intent of the City to ensure that future Freeway ~~freeway~~ noise impacts are mitigated by establishing noise attenuation requirements applicable to future development of residential land uses and other noise sensitive uses as defined in this Overlay District.

§ 9-1-2 Applicability.

All residential development and other noise sensitive land uses located within five hundred (500) feet of ~~the Papago and Loop 303~~ Freeway alignments shall comply with the provisions of this Overlay District. Noise sensitive land uses shall include schools, places of worship, childcare facilities, hospitals, nursing homes, libraries, and similar facilities, as determined by the Zoning Administrator, or his or her designee. Abatement measures are generally not required for new commercial and industrial developments. Abatement measures are generally required only with respect to structures designed for human occupancy within the specified distance from the Freeway ~~freeway~~ right-of-way boundaries.

All residential development and other noise sensitive uses within five hundred (500) feet of ~~the future Papago and Loop 303~~ Freeway right-of-way boundaries shall submit a sound attenuation plan prior to rezoning, use permit, or site plan approval.

Any property or lot completely or partially located within five hundred (500) feet of the exterior edge of ~~the planned right-of-way boundary on each side of the Papago and Loop 303~~ Freeway alignments shall comply with the provisions of this Overlay District.

§ 9-1-3 Sound Attenuation Plan.

A. *EXTERIOR NOISE STANDARDS*.

1. The sound attenuation plan shall include a noise analysis of the property that details the projected Freeway ~~freeway~~ noise levels based upon the most current projected traffic volumes available from the Maricopa Association of Governments. The time period for the projected traffic volumes and traffic characteristics shall be a minimum of fifteen (15) years from the date of the submittal of the sound attenuation plan, unless otherwise approved by the City Engineer, or his or her designee. In the event that the design and development of the projected Freeway ~~freeway~~ is not at a stage for which a noise analysis is reasonably feasible, then no such noise analysis shall be required, but the sound attenuation plan shall obligate the property owner to construct or otherwise provide for a sound barrier wall of a minimum of eight (8) feet in height, or an acceptable equivalent, and install landscape treatments, subject to the approval of the Zoning Administrator, or his or her designee.

2. The sound attenuation plan shall include the proposed attenuation measures needed to reasonably predict that the projected exterior noise levels on the property at ground level shall not exceed the (L_{eq}) sixty-seven (67) ~~sixty-four (64)~~ dBA noise level. For the purposes of this Overlay District, the noise measurement method used by the Arizona Department of Transportation (ADOT) and the Federal Highway Administration (FHWA) will

be used. In addition to any proposed attenuation measures, a sound attenuation plan may also identify who, in place of the property owner, may be responsible for specific measures, the timing for installing the specific attenuation measures, and describe or provide for proposed alternative means of compliance as to any specific attenuation measures as may be approved by the City Engineer, or his or her designee.

3. The sound attenuation plan shall include a certification by a qualified transportation noise analyst as to the projected exterior noise levels on the site and that the sound attenuation measures will meet the (L_{eq}) sixty-seven (67) ~~sixty-four (64)~~ dBA noise level.

B. *INTERIOR NOISE STANDARDS*.

1. The sound attenuation plan shall also include measures needed to reasonably predict that the projected interior noise levels for each dwelling unit or building unit or building determined to have a noise sensitive use shall achieve a maximum interior noise level of (L_{eq}) forty-five (45) dBA ~~decibels~~. In order to comply with this maximum noise level, a minimum of R18 exterior wall assembly, a minimum of R30 roof/ceiling assembly, dual-glazed windows and solid wood, and foam-filled fiberglass or metal doors to the exterior shall be required of new buildings or dwelling units. As an alternative, a certification by an architect or engineer to achieve a maximum interior noise level of (L_{eq}) forty-five (45) dBA ~~decibels~~ at the time of final construction may be submitted. The sound attenuation standards within this Overlay District shall not apply to accessory buildings used on a property with the primary building.

§ 9-1-4 Sound Attenuation Improvements.

Sound attenuation improvements shall include all reasonable and feasible measures necessary to meet the required standard including the construction of Freeway ~~freeway~~ walls and earthen berms. If there are special characteristics within a Freeway ~~freeway~~ corridor, such as the topography of the area, drainage, maintenance requirements, or safety considerations, as determined by the City Engineer, or his or her designee, then the construction of a noise barrier of greater than 20 feet in height should be avoided. Reasonable and feasible measures may include, without limitation, achieving a noise reduction of at least 5 dBA, barrier height, aesthetic issues relating to a proposed barrier, or such other measures as consistent with the ADOT (Arizona Department of Transportation) Noise Abatement Requirements (May 2017, as may be amended) ~~Policy~~ and approved by the City Engineer, or his or her designee. The sound attenuation measures shall utilize designs that minimize the visual impact on the site with appropriate use of colors and materials. Any landscape plan proposed for any site subject to the Freeway ~~freeway~~ development standards whereby a wall or berm is required shall include, where appropriate, visual mitigation measures, such as colors, materials, styles, designs, or additional landscape treatments to minimize the visual impacts of walls or berms.

§ 9-1-5 Administration.

A. *PROCEDURES AND CONDITIONS OF APPROVAL*.

1. The City Engineer, or his or her designee, shall review the sound attenuation plan and its proposed improvements for compliance with the intent of this Overlay District.

2. The approval of the sound attenuation plan shall occur prior to any rezoning, use permit, or site plan approval.

3. Notwithstanding the approval of a particular sound attenuation plan, where changed conditions or circumstances have occurred, any property owner (or its successor in interest) for whom a sound attenuation plan has been approved, may apply to the City Engineer, or his or her designee, to amend the plan. Changed conditions or circumstances may include, without limitation, changes in the location, grade, or design of a proposed Freeway ~~freeway~~, changes in the proposed land use adjacent to the Freeway ~~freeway~~, or any changes significantly affecting the noise analysis of the subject property.

B. *PROVISIONS FOR "IN LIEU OF" PAYMENT*.

1. Subject to the approval of the City Engineer, or his or her designee, a development shall have the option of complying with an approved sound attenuation plan (or a portion thereof) by placing on deposit with the City for deposit in an interest bearing account (with interest to accrue to and be made part of such deposit) a sum equivalent to the cost of the applicable noise mitigation measures specified in the plan, in lieu of actual construction of any particular such measures for which a deposit is made. This deposit shall be made prior to recordation of the final plat, or prior to issuance of a building permit for a project with an approved site plan or use permit, and except to the extent expended for the noise mitigation measures specified, shall be reimbursed to the party making the deposit, upon the earlier to occur of:

a. a determination by the Arizona Department of Transportation (ADOT), the Maricopa County Department of Transportation (MCDOT), or other applicable governmental authority not to construct or extend the ~~Papago (Interstate 10) or Loop 303 freeway~~ Freeway, including any redesignation reducing the status from Freeway ~~freeway~~ to some other roadway, in the proximity of the subject property; or

b. a change in the location or alignment of the ~~Papago or Loop 303 freeway~~ Freeway (or right-of-way boundaries) as a result of which the subject property ceases to be within the Freeway ~~freeway~~ proximity for which this Ordinance requires a sound attenuation plan; or

c. that date which is twenty (20) years after the date of deposit (the "Reimbursement Date"), unless on or prior to the Reimbursement Date, ADOT, MCDOT, or other applicable governmental authority confirms in writing the continued plan for a Freeway ~~freeway~~ within the proximity to the subject property for which this Ordinance requires a sound attenuation plan, in which event the Reimbursement Date shall be extended up to an additional ten (10) years from the date of such confirmation. In no event may the Reimbursement Date be extended beyond the date which is thirty (30) years after the date of the deposit.

C. *APPEAL PROCESS*.

1. If the City Engineer, or his or her designee, determines that the sound attenuation plan (including a proposed amended plan) does not meet the intent of this Overlay District that decision may be appealed to the City Council within forty-five (45) days of the decision.

EXHIBIT B

Code of Ordinances Text Amendment to Article 15 (Subdivision Regulations)

City of Goodyear Code of Ordinances Chapter 15 (Subdivision Regulations) Article 15-1 (General Provisions) Section 15-1-2 (Definitions) is amended to add new definitions of "DECIBEL (dB)," "DECIBEL, A-WEIGHTED SCALE (dBA)," "FREEWAY," "L_{EQ}," and "NOISE SENSITIVE USES" as follows:

> **DECIBEL (dB).** A unit used to measure the intensity of a sound by comparing it with a given level on a logarithmic scale.
>
> **DECIBEL, A-WEIGHTED SCALE (dBA).** The sound level, in decibels, measured using an electronic filter in a sound level meter which approximates the frequency response of the human ear.
>
> **FREEWAY.** The Papago Freeway (Interstate 10), the Loop 303 Freeway, the future Tres Rios Freeway (Arizona State Route 30), future Interstate 11, and any other future controlled-access highway or controlled-access highway modification located or to be located within the City.
>
> **L_{EQ}.** The equivalent steady-state sound level which in a stated period of time contains the same acoustic energy as the time-varying sound level during the same time period.
>
> **NOISE SENSITIVE USES.** Schools, places of worship, childcare facilities, hospitals, nursing homes, libraries, and similar facilities determined pursuant to Zoning Ordinance Section 9-1-2.

City of Goodyear Code of Ordinances Chapter 15 (Subdivision Regulations) Article 15-4 (Street and Utility Improvement Requirements) Section 15-4-4 (Required improvements subdivisions) is amended to revise paragraph (P) (Freeway development standards) subparagraphs 2 and 3 as follows (with additions shown with double underline and deletions shown with ~~strikethrough~~):

> (P) *Freeway development standards.* The purpose of this section is to provide the appropriate and necessary off site and on site improvements to protect and enhance the livability of properties near any ~~the Papago~~ Freeway ~~(Interstate 10) and the Loop 303 Freeway~~ within the City. These Freeway corridors will have a significant impact on the surrounding land uses. Noise and traffic generated by ~~these~~ Freeways will impact residential land uses and other noise sensitive uses that may be constructed adjacent to the Freeway corridors. It is the intent of the City to ensure that Freeway ~~future freeway~~ noise impacts are mitigated by establishing noise attenuation requirements applicable to future development of residential subdivisions and subdivisions containing or proposed to include noise sensitive uses.

(1) All residential development and noise sensitive uses located within 500 feet of ~~the Papago and Loop 303~~ Freeway alignments shall comply with the provisions of this section.

(2) A sound attenuation plan will be required of all residential subdivisions and subdivisions containing or proposed to include noise sensitive uses within 500 feet of ~~the future Papago and Loop 303~~ Freeway right of way boundaries prior to approval of a preliminary plat. Any subdivision completely or partially located within 500 feet of the exterior edge of the planned right of way boundary on each side of ~~the Papago and Loop 303~~ Freeway alignments shall comply with the provisions of this section. Abatement measures are generally required only with respect to structures designed for human occupancy within the specified distance from the Freeway ~~freeway~~ right of way boundaries.

(a) The sound attenuation plan shall include a noise analysis of the subdivision that details the projected Freeway ~~freeway~~ noise levels based upon the most current projected traffic volumes available from the Maricopa Association of Governments. The time period for the projected traffic volumes and traffic characteristics shall be a minimum of 15 years from the date of the submittal of the sound attenuation plan, unless otherwise approved by the City Engineer, or his or her designee. In the event that the design and development of the projected Freeway ~~freeway~~ is not at a stage for which a noise analysis is reasonably feasible, then no such noise analysis shall be required, but the sound attenuation plan shall obligate the property owner to construct or otherwise provide for a sound barrier wall of a minimum of eight feet in height or an acceptable equivalent and install landscape treatments, subject to the approval of the Zoning Administrator or his or her designee.

(b) The sound attenuation plan shall include the proposed attenuation measures needed to reasonably predict that the projected exterior noise levels on the subdivision at ground level shall not exceed the (L_{eq}) 67 ~~64~~ dBA noise level. For the purposes of this section, the noise measurement method used by the Arizona Department of Transportation (ADOT) and the Federal Highway Administration (FHWA) will be used. In addition to any proposed attenuation measures, a sound attenuation plan may also identify who, in place of the property owner, may be responsible for the specific measures, the timing for installing the specific attenuation measures and describe or provide for proposed alternative means of compliance as to any specific attenuation measures as may be approved by the City Engineer or his or her designee.

(c) The sound attenuation plan shall include a certification by a qualified transportation noise analyst as to the projected exterior noise levels on the site and that the sound attenuation measures will meet the (L_{eq}) 67 ~~64~~ dBA noise level.

(d) The sound attenuation plan shall also include measures needed to reasonably predict that the projected interior noise levels for each dwelling unit or building unit or building determined to have a noise sensitive use shall achieve a maximum interior noise level of (L_{eq}) 45 dBA ~~decibels~~. In order to comply with this maximum noise level, a minimum of R18 exterior wall assembly, a minimum of R30 roof/ceiling assembly, dual glazed windows and solid wood and foam filled fiberglass or metal doors to the exterior shall be required of new dwelling units. As an alternative, a certification by an architect or engineer to achieve a maximum interior noise level of (L_{eq}) 45 dBA ~~decibels~~ at the time of final construction may be submitted. The sound attenuation standards of this section shall not apply to accessory buildings used on a property with the primary building.

(3) Sound attenuation improvements shall include all reasonable and feasible measures necessary to meet the required standard, including the construction of Freeway ~~freeway~~ walls and earthen berms. If there are special characteristics within a Freeway ~~freeway~~ corridor, such as the topography of the area, drainage, maintenance requirements or safety considerations, as determined by the City Engineer or his or her designee, then the construction of a noise barrier of greater than 20 feet in height should be avoided. Reasonable and feasible measures may include, without limitation, achieving a noise reduction of at least 5 dBA, barrier height, aesthetic issues relating to a proposed barrier or such other measures as consistent with the ADOT (Arizona Department of Transportation) Noise Abatement Requirements (May 2017, as may be amended) ~~Policy~~ and approved by the City Engineer or his or her designee.

(4) The sound attenuation measures shall utilize designs that minimize the visual impact on the subdivision with appropriate use of colors and materials. Any landscape plan proposed for any subdivision subject to the Freeway ~~freeway~~ development standards whereby a wall or berm is required shall include, where appropriate, visual mitigation measures, such as colors, materials, styles, designs or additional landscape treatments to minimize the visual impacts of walls or berms.

(5) The City Engineer or his or her designee shall review the sound attenuation plan and its proposed improvements for compliance with the intent of this section.

(6) The approval of the sound attenuation plan shall occur prior to any preliminary plat approval.

(7) Notwithstanding the approval of a particular sound attenuation plan, where changed conditions or circumstances have occurred, any property owner (or its successor in interest) for whom a sound attenuation plan has been approved may apply to the City Engineer or his or her designee to amend the plan. Changed conditions or circumstances may include, without limitation, changes in the location, grade or design of a proposed Freeway ~~freeway~~, changes in the

proposed land use adjacent to the Freeway ~~freeway~~ or any changes significantly affecting the noise analysis of the subject property.

(8) Subject to the approval of the City Engineer or his or her designee, a residential development shall have the option of complying with an approved sound attenuation plan (or a portion thereof) by placing on deposit with the City for deposit in an interest bearing account (with interest to accrue to and be made a part of such deposit) a sum equivalent to the cost of the applicable noise mitigation measures specified in the plan, in lieu of actual construction of any particular such measures for which a deposit is made. This deposit shall be made prior to recordation of the final plat, and except to the extent expended for the noise mitigation measures specified, shall be reimbursed to the party making the deposit, upon the earlier to occur of:

(a) A determination by the Arizona Department of Transportation (ADOT), the Maricopa County Department of Transportation (MCDOT) or other applicable governmental authority not to construct or extend the ~~Papago (Interstate 10) or Loop 303~~ Freeway, including any redesignation reducing the status from Freeway ~~freeway~~ to some other roadway, in the proximity of the subject property; or

(b) A change in the location or alignment of the ~~Papago or Loop 303~~ Freeway (or right of way boundaries) as a result of which the subject property ceases to be within the Freeway ~~freeway~~ proximity for which this section requires a sound attenuation plan; or

(c) That date which is 20 years after the date of deposit (the Reimbursement Date), unless on or prior to the Reimbursement Date, ADOT, MCDOT or other applicable governmental authority confirms in writing the continued plan for which this section requires a sound attenuation plan, in which event the Reimbursement Date shall be extended up to an additional ten years from the date of such confirmation. In no event may the Reimbursement Date be extended beyond the date which is 30 years after the date of deposit.

(9) If the City Engineer or his or her designee determines that the sound attenuation plan (including a proposed amended plan) does not meet the intent of this section, that decision may be appealed to the City Council within 45 days of the decision.

ORDINANCE NO. 2023-1589

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AMENDING CITY OF GOODYEAR ZONING ORDINANCE ARTICLE 2 (DEFINITIONS) AND ARTICLE 9-1 (FREEWAY DEVELOPMENT OVERLAY DISTRICT) AND CITY OF GOODYEAR CODE OF ORDINANCES CHAPTER 15 (SUBDIVISION REGULATIONS) TO ADD DEFINITIONS AND CHANGE THE EXTERIOR SOUND ATTENUATION REQUIREMENT FOR DWELLING UNITS AND NOISE SENSITIVE USES TO SIXTY-SEVEN (67) DECIBELS; 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 city of Goodyear Zoning Ordinance regulates the development of all land within the city. Regulations set forth in the Zoning Ordinance may be amended when deemed necessary to best serve the public interest, health, comfort, convenience, safety, and general welfare of the citizens of the city; and

WHEREAS, the current city of Goodyear Zoning Ordinance was originally adopted by the City Council in May 1999 and has been the subject of a number of amendments since then; and

WHEREAS, Article 1, Section 1-3-1, of the Zoning Ordinance establishes the process for the review and approval of text amendments to the Zoning Ordinance. Amendments must be reviewed by the Planning and Zoning Commission and approved by the City Council through the public hearing process; and

WHEREAS, the city of Goodyear has adopted subdivision regulations codified in Chapter 15 of the Goodyear Code of Ordinances (the “Subdivision Regulations”); and

WHEREAS, the city of Goodyear Subdivision Regulations were originally adopted by the City Council in 1994 and have undergone several amendments since then; and

WHEREAS, the Arizona Department of Transportation (ADOT) issued a “Noise Abatement Requirements” publication in May 2017, adopting the Federal Highway Administration noise abatement requirements found in Title 23, Code of Federal Regulations, Part 772 (23 CFR Part 722), with an exterior sound attenuation requirement of 67 decibels for dwelling units and noise sensitive uses located near a freeway; and

WHEREAS, current city standards, as established in both the Zoning Ordinance and Subdivision Regulations, set a maximum exterior noise level of 64 decibels for residential and other noise sensitive uses within 500 feet of a freeway; and

WHEREAS, the ADOT exterior sound attenuation requirement is different from the existing city of Goodyear exterior sound attenuation requirement for dwelling units and noise sensitive uses located near a freeway; and

WHEREAS, this staff-initiated text amendment is intended to bring the city’s sound attenuation requirements, as established in both the Zoning Ordinance and Subdivision Regulations, into conformance with those standards established by ADOT; and

WHEREAS, public notice that this text amendment 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, and at that hearing the Commission voted 5-0 to recommend aproval of the proposed text amendment; and

WHEREAS, public notice that this text amendment was 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 that making the city of Goodyear sound attenuation requirement consistent with ADOT's requirement avoids confusion and is in the best interests of the City of Goodyear, its residents, and those who develop near freeways.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. AMENDMENT OF FREEWAY SOUND ATTENUATION REQUIREMENTS IN ZONING ORDINANCE

City of Goodyear Zoning Ordinance Article 2 (Definitions) and Article 9-1 (Freeway Development Overlay District) are hereby amended by the addition of new definitions and the change of the exterior sound attenuation requirement for dwelling units and noise sensitive uses to sixty-seven (67) decibels, as set forth in that certain document titled, "Zoning Ordinance Text Amendment to Article 2-2 (Definitions) and Article 9-1 (Freeway Development Overlay District)", which document was declared a public record by Resolution No. 2023-2341 and which is referred to, adopted, and made part hereof as if fully set forth in the Ordinance.

SECTION 2. AMENDMENT OF FREEWAY SOUND ATTENUATION REQUIREMENTS IN SUBDIVISION REGULATIONS

City of Goodyear Code of Ordinances Chapter 15 (Subdivision Regulations) is hereby amended by the addition of new definitions and the change of the exterior sound attenuation requirement for dwelling units and noise sensitive uses to sixty-seven (67) decibels, as set forth in that certain document titled, "Code of Ordinances Text Amendment to Article 15 (Subdivision Regulations), which document was declared a public record by Resolution No. 2023-2341 and which is referred to, adopted, and made part hereof as if fully set forth in the Ordinance.

SECTION 3. 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 4. 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 5. EFFECTIVE DATE

This Ordinance shall become effective as prescribed by law.

SECTION 6. 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 7. 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:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

Freeway Sound Attenuation
Zoning Ordinance & Subdivision Regulations
Text Amendment

City Council

September 25, 2023

Background

FREEWAY SOUND ATTENUATION AMENDMENT

- Zoning Ordinance regulates (1999)
- Amendments for general welfare, health, safety
- Contains standards for freeway sound attenuation (Article 9-1)
- Mirrored in Subdivision Regulations (Chapter 15)
- Discrepancy with ADOT standard
  - (max exterior noise level)

Purpose

FREEWAY SOUND ATTENUATION AMENDMENT

- Staff-initiated amendment
- Bring Zoning Ordinance and Sub Regs into conformance with ADOT
- City exterior standard is 64 dBA
- ADOT exterior standard is 67 dBA
- Create supporting definitions

Evaluation

FREEWAY SOUND ATTENUATION AMENDMENT

- Correct inconsistency with ADOT standard
- Provide clarity
- Not result in noticeable increase of sound
- General Plan – buffer residential from freeways
  - Sound attenuation standards support this standard
- No adverse impacts on public welfare

Public Review

FREEWAY SOUND ATTENUATION AMENDMENT

- Amendments – Public Hearing process
- Notification for public hearings (legal notice)
- Notice to Developer Forum
- Website – Current Development Applications
- No opposition to date

Staff Findings & Recommendation

FREEWAY SOUND ATTENUATION AMENDMENT

- Provides consistency and clarity
- Promotes implementation of the General Plan
- Promote the general health, safety & welfare the citizens and the public
- P&Z Commission Sept 13 – No opposition
- Staff & Commission recommend approval


CITY OF
Goodyear

ITEM #: 13.
DATE: 09/25/2023
AI #:1651

CITY COUNCIL ACTION REPORT

SUBJECT: USE PERMIT FOR A CONVENIENCE STORE AND FUEL STATION 23-300-00002 (LAKIN PARK CONVENIENCE STORE)

STAFF PRESENTER(S): David Williams, Contract Planner

SUMMARY

A Use Permit request for a Convenience Use (Convenience store with gas station) proposed on an approximately 5.22 acres parcel located at the Southwest corner of MC85 and Cotton Lane. The property is zoned Planned Area Development (PAD) with an underlying land use of Commercial / Industrial Flex Zone.

STRATEGIC PLAN ALIGNMENT



RECOMMENDATION

Approve a Use Permit for a Convenience Use (Convenience Store with gas station) on an approximately 5.22 acre parcel located at the Southwest Corner of MC-85 and S. Cotton Lane (the “Property”). (David Williams, Contract Senior Planner)

STIPULATIONS

1. The Conceptual Site Plan for Lakin Park Convenience Store submitted with the application for the Use Permit is not approved. Development of the Property is 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, infrastructure, parking, access and circulation; and

2. The City of Goodyear reserves the right to initiate revocation of the Use Permit in the event that the Use Permit is not operated in compliance with the stipulations stated herein or as represented in the Use Permit application; and

3. The configuration and location of the proposed building, fuel pump stations, parking, and resultant traffic patterns shall be developed in substantial conformance with the attached Conceptual Site Plan for Lakin Park Convenience Store, the Landscape Plan, and Building and canopy Elevations attached hereto. Any changes to the configuration of these improvements in the final site plan, including changes resulting from any changes in access to the Property, may require an amendment to the Use

Permit as determined by the Development Services Director or designee; and

4. Any temporary retention basins constructed within the Property shall be covered with at least two inches of decomposed granite (DG) matching the DG used for the permanent landscape areas within the Property; and

5. Fuel canopy light fixtures shall be recessed into the canopy ceiling, with a lens that is flat and flush to the ceiling. Exposed light sources on the canopy or backlit fascia shall not be permitted; and

6. Signage is not approved with this use permit. No signage shall be permitted or installed until Owner has complied with the: (i) requirements of the Goodyear Zoning Ordinance applicable to signage, including, but not limited to the requirements in Article 7, which requires the submittal of a Comprehensive Sign Package pursuant to Section 7-10-A-1; and (ii) the requirements in Ordinance 2019-1451, including the requirement in the CP Lakin Park Planned Area Development adopted therein; and

7. The Traffic Study submitted has been approved by the Goodyear City Engineer but requires approval of the Maricopa County Department of Transportation ("MCDOT") and the Arizona Department of Transportation ("ADOT") prior to approval of a final site plan for the development of the Property and the issuance of any permit for work on the Property; and

8. The traffic study and the conceptual site plan contemplate access to the Property from the "Common Drive" off of MC85, which drive is located on the adjacent property. Prior to approval of a site plan for the Property or the issuance of any permit for work on the site, Owner shall demonstrate that the Common Drive provides legal access to the Property; and

9. Prior to approval of a site plan for the Property or the issuance of any permit for work on the site, whichever is earlier, Owner shall provide emergency access easements needed for two points of access for emergency services that meet all applicable development regulations, including but not limited to the requirements in standards and requirements set forth in the City of Goodyear Engineering Design Standards and Policy Manual and access requirements in the city's fire code. The easement shall be conveyed at no cost to the city, and shall be lien free, free of all encumbrances unless agreed to by the city attorney or his designee, and in a form provided by the city attorney or his designee; and

10. No site plan shall be approved for the development of the Property and no construction permits shall be 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 site plan and/or construction permit. This includes, but is not limited to, approvals and/or easements that may be needed from Maricopa County Department of Transportation, Buckeye Irrigation District, and the Flood Control District of Maricopa County. All required approvals and easements shall be in a form acceptable to the City Engineer or his/her designee ; and

11. Owner shall construct, at Owner's sole cost and expense, all on-site and off-site infrastructure improvements determined by the City as being necessary to provide water service and wastewater service to the Property; and

12. The City's obligation to provide water and sewer service to the Property is limited to the flow volumes reflected in the water reports and sewer reports for the Property approved by the City Engineer or designee. If the flow volumes of water and/or sewer exceed the flow volumes reflected in the approved water reports and/or approved sewer reports the city shall be entitled

to terminate service to the Property until Owner submits updated reports to the City that addresses: (i) the capacity of the existing infrastructure to deliver the additional wastewater flows to the 157 th Avenue Water Reclamation Facility; (ii) the availability of uncommitted capacity at the city's 157th Avenue Water Reclamation Facility to accept and treat the additional wastewater flows: (iii) the availability of an uncommitted potable water supply; and (iv) the capacity of existing water delivery lines to deliver the additional water flows to the Property(the "Updated Report(s)"). The Updated Report(s) shall identify all additional infrastructure that needs to be constructed for the city to accept the increased flow volumes of wastewater at the 157 th Avenue Water Reclamation Facility and to deliver the increased flow volumes of water to the Property. The city shall have no obligation to provide service to accommodate the flow volumes in the Updated Reports unless there is: an uncommitted water supply sufficient to provide the additional water flows, uncommitted capacity at the 157th Avenue Water Reclamation Facility to accept the wastewater flows reflected in the Updated Report(s) and until Owner, at Owner's sole cost and expense, has completed the construction of the infrastructure identified in the Updated Report(s) and has conveyed all real estate interests (lien free and free of all encumbrances unless agreed to by the City Engineer or designee), required for the construction of such infrastructure.; and

13. No permits for work within the Property shall be issued unless there is uncommitted capacity available at the city's 157 th 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; and

14. Owner shall, at no cost to the City, complete the construction of the full half-street improvements for the western section of S. Cotton Lane along the frontage of the Property required for a scenic arterial as set forth in the City of Goodyear Engineering Design Standards and Policy Manual in effect at the time of construction (the "EDS&PM"), including, but not limited to: paving, a bus bay as required in the EDS&PM (Section 4.3.2.A & COG Std. Dtl. G-3230, G-3242), deceleration lanes if required in the EDS&PM, sidewalks, landscaping, landscape irrigation, street lights, signing and striping. Owner shall, at no cost to the city, convey to the City of Goodyear, in fee, lien free, and free of all encumbrances unless expressly agreed to by the City Engineer or his/her designee, all right-of-way required for the street improvements Owner is required to construct herein. The dedication of the right-of-way required herein shall be made prior to the approval of the Site Plan for the Property or when requested by the City Engineer or his designee, whichever is earlier. No certificates of completion, temporary certificates of occupancy or certificates of occupancy shall be issued for any structure within the Property until the improvements to Cotton Lane described herein have been completed and accepted by the City Engineer or his designee subject to completion of the two-year warranty period; and

15. Ingress and Egress on Cotton Lane is limited to right-in right-out. If access to the Property is to be provided from Cotton Lane, a concrete deceleration lane shall be constructed for each such access point as required in the EDS&PM (4.1.3.K.6.b & COG Std. Dtl. G-3215, G-3230) ("Driveway Deceleration Lane(s)"). Unless Owner obtains approval of a Waiver from the City Engineer or his designee pursuant to the process set forth in the EDS&PM prior to or concurrent with the submittal of a site plan or construction documents for the development of the Property, whichever is earlier, the site plan or construction drawings shall be designed so that the bus bay that is to be constructed shall not be combined with any required driveway deceleration lane; and

16. In addition to constructing the infrastructure improvements specifically identified herein, 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 the City, and Engineering Design Standards and Policy Manual (EDS&PM) in effect at the time of construction; 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, the conditions and stipulations of approval set forth in Ordinance 2019-1451, and all other federal, state and locals laws, ordinances, rules, regulations, standards, and policies applicable to the development of the Property.

FISCAL IMPACT

Although a fiscal impact analysis has not been conducted on this specific project, all new development will have an ongoing fiscal impact to the city. The development is responsible for construction of all infrastructure necessary to serve the site and will generate one time revenue for the city through payment of permits, construction sales tax and development impact fees. Longer term fiscal impacts including increased demands for municipal services, the costs of which may or may not be offset by the increased property values/tax levies, city sales tax, state shared revenues and the increased demand for commercial and retail development. Any areas that will be maintained by the city are constructed by the developer and then conveyed to the city two years after construction.

BACKGROUND AND PREVIOUS ACTIONS

In October of 2019, the larger 696 acre site known as Lakin Park was rezoned from Agricultural Urban (AU) to the current Planned Area Development (PAD). At that time, uses were assigned to each parcel and this parcel was designated for commercial and industrial uses. This was approved under Ordinance 2019-1451.

The Planning and Zoning Commission considered this item at their regular meeting held on September 14, 2023. Commissioners voted unanimously (5-0) to forward a recommendation of approval to the City Council as originally presented to the Planning and Zoning Commission.

STAFF ANALYSIS

Current Policy

A Use Permit requires review by the Planning and Zoning Commission and approval by the City Council following required public hearings. The process for review of a Use Permit is set forth in section 1-3-2 of the Goodyear Zoning Ordinance and in the City of Goodyear Administrative Process Manual.

Details of the Request

The applicant is requesting approval of a Use Permit to allow the development of convenience store with gas station. The property is located at the Southwest corner of MC-85 and S. Cotton Lane, within the Lakin Park Planned Area Development. The Property is zoned Planned Area Development (PAD) with an underlying land use of Commercial / Industrial Flex Zone. Under the PAD zoning, the development standards for the C-2 (General Commercial) zoning district

as set forth in the Goodyear Zoning Ordinance apply to the Property except as modified in this PAD.
The Conceptual Site Plan for the Lakin Park Convenience Store, attached hereto, includes an approximately 4,850 square-foot convenience store with a combined 6,452 square-foot fuel canopy area (2 canopies), with the ability to serve up to 10 automobiles and 5 commercial vehicles at a time. The on-site parking, as reflected in the Preliminary Site Plan for Lakin Park Convenience Store, attached hereto, conforms with applicable city standards. As shown on the building elevations submitted with the use permit, the design for the building will utilize a variety of materials and colors including brick and stone. Although not being approved, development of the permitted use is required to be in substantial conformance with the Conceptual Site Plan, the Conceptual Landscape Plan, and the Conceptual Building and canopy Elevations attached hereto.

Evaluation Criteria

Section 1-3-2 (Use Permits) of the Zoning Ordinance requires that the Planning and Zoning Commission and City Council determine that the proposed use meets the following findings prior to granting a Use Permit:

1. The Use Permit will not be materially detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare;

As described in the materials provided with the use permit, the proposed use should not generate excessive odors, noise, or light to the detriment of the surrounding area. Traffic impacts have been reviewed and determined to be in conformance with the roadway capacity and improvements in the area. The property is surrounded by industrial uses and agricultural uses. Immediately adjacent to the west of the property is the recently constructed South Cotton Goodyear Warehouse (Site Plan 20-600-0021) consisting of 1,264,234 square feet of industrial warehouse space.

2. The proposed use is reasonably compatible with the uses permitted in the surrounding areas;

The proposed use is located within a commercial / industrial area intended for such uses. Construction was approved for the South Cotton Goodyear Warehouse just west of the proposed project in 2020 (Site Plan 20-600-0021). There is a proposed rezoning for an industrial warehouse on the North side of MC-85, North West of this project. In addition the site will be able to provide fuel and convenience services to the existing and future businesses, where no such uses exist today.

Section 4-2-2 (Convenience Uses) of the Zoning Ordinance provides the following additional evaluation criteria for convenience uses regarding their potential impact on traffic congestion, the neighborhood in general, and their appropriateness for the site;

1. Adequacy of the parcel size and configuration to provide for proper access and internal circulation.

The approximately 5.22 acre site is of sufficient size and configuration to accommodate the proposed convenience store and fueling stations. If approved, the proposed access and internal traffic circulation pattern have been designed to meet minimum standards for a project with these proposed uses.

2. Compatibility of the proposed hours of operation with adjacent residential areas.

The proposed convenience store and fueling station is proposed to be open 24 hours per day, 7 days per week. Given that the proposed use is located among proposed and existing industrial and commercial uses, this location meets the compatibility standard in the Zoning Ordinance.

3. Required traffic mitigation measures, if any;

A traffic study was submitted with the application for the Use Permit. The traffic study has been approved by the City Engineer but requires approval of MCDOT and ADOT. The traffic study reflects ingress and egress to and from the Property is contemplated to be provided from Cotton Lane and a common shared drive to the west of the Property from MC-85.

Offsite street and access improvements adjacent to the site will be completed by the developer.

4. Other concerns, which may place the advisability of the proposed convenience use in question.

Staff has found no additional concerns with the development of a Convenience and Fueling Use on the property.

Economic Development has also reviewed the corner signage proposed and had no comments. It should be noted that the entire Lakin Park PAD will need to complete a Comprehensive Sign Package prior to the issuance of any sign permits. Stipulation 5 was added to address this requirement.

Fire Department

Emergency response times and distances are provided below:

Nearest Fire Station	Response Time			2nd Nearest Fire Station	Response Time	
	Minutes	Miles			Minutes	Miles
#184	6.86	3.43		#182	8.27	4.14

Public Participation

In accordance with the city's Citizen Review Ordinance, an alternative notification process was used for the use permit request. A formal citizen review meeting was not involved; however, a notice was mailed to all property owners within 500 feet of the property. Staff has not received any public comments related to this application.

The Planning and Zoning Commission considered this item at their regular meeting on September 13, 2023. Upon conclusion of the staff presentation, the commission asked staff about access from Common Drive to Cotton Lane. Staff clarified that there may be access onto Cotton Lane from the Common Drive, however final access will be determined by ADOT

when the designs for the loop 303 are finalized and may change from the proposed conditions. Staff also clarified and stated that there is only one residential property in proximity to this project and it is a farm house located within the storage and maintenance yard for the farm east of the proposed site. The applicant gave a brief presentation and indicated that the intent of this project is to provide services to the businesses and employees in the immediate area. The Vice-Chairman called for any public comment and staff indicated that there were no members of the audience who wished to speak on this case. The Commission then unanimously voted (5-0) to forward a recommendation of approval to the City Council.

STAFF FINDINGS

As outlined herein, staff finds that the proposed request for the Use Permit to not be materially detrimental to businesses and uses in the surrounding area, nor proposed future uses in addition to not being an impact to the public welfare and that the proposed use is compatible with the uses permitting in the surrounding area. Staff further finds that the request for a Use Permit will meet the additional evaluation criteria for convenience uses as established in Section 4-2-2 of the Zoning Ordinance.

Attachments

Staff Report
Project Narrative
Conceptual Site Plan
Conceptual Building Elevations
Conceptual Auto Fuel Canopy Elevations
Conceptual Diesel Fuel Canopy Elevations
Conceptual Landscape Plan
Powerpoint presentation

Agenda Item #:
COUNCIL DATE: September 25, 2023
Case#: 23-300-00002
CAR#: 1651

CITY COUNCIL ACTION REPORT

SUBJECT: Request for Use Permit for Lakin Fuel and Convenience Store

STAFF PRESENTER(S): David Williams, Contract Planner

OTHER PRESENTER(S): Shawping Abeyta, Esencia Architecture

SUMMARY: A Use Permit request for a Convenience Use (Convenience store with gas station) proposed on an approximately 5.22 acres parcel located at the Southwest corner of MC85 and Cotton Lane. The property is zoned Planned Area Development (PAD) with an underlying land use of Commercial / Industrial Flex Zone.

STRATEGIC PLAN ALIGNMENT



RECOMMENDATION:

1. Approve a Use Permit for a Convenience Use (Convenience Store with gas station) on an approximately 5.22 acre parcel located at the Southwest Corner of MC-85 and S. Cotton Lane (the "Property"). (David Williams, Contract Senior Planner)

STIPULATIONS:

1. The Conceptual Site Plan for Lakin Park Convenience Store submitted with the application for the Use Permit is not approved. Development of the Property is 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, infrastructure, parking, access and circulation; and

2. The City of Goodyear reserves the right to initiate revocation of the Use Permit in the event that the Use Permit is not operated in compliance with the stipulations

stated herein or as represented in the Use Permit application; and

3. The configuration and location of the proposed building, fuel pump stations, parking, and resultant traffic patterns shall be developed in substantial conformance with the attached Conceptual Site Plan for Lakin Park Convenience Store, the Landscape Plan, and Building and canopy Elevations attached hereto. Any changes to the configuration of these improvements in the final site plan, including changes resulting from any changes in access to the Property, may require an amendment to the Use Permit as determined by the Development Services Director or designee; and

4. Any temporary retention basins constructed within the Property shall be covered with at least two inches of decomposed granite (DG) matching the DG used for the permanent landscape areas within the Property; and

5. Fuel canopy light fixtures shall be recessed into the canopy ceiling, with a lens that is flat and flush to the ceiling. Exposed light sources on the canopy or backlit fascia shall not be permitted; and

6. Signage is not approved with this use permit. No signage shall be permitted or installed until Owner has complied with the: (i) requirements of the Goodyear Zoning Ordinance applicable to signage, including, but not limited to the requirements in Article 7, which requires the submittal of a Comprehensive Sign Package pursuant to Section 7-10-A-1; and (ii) the requirements in Ordinance 2019-1451, including the requirement in the CP Lakin Park Planned Area Development adopted therein; and

7. The Traffic Study submitted has been approved by the Goodyear City Engineer but requires approval of the Maricopa County Department of Transportation ("MCDOT") and the Arizona Department of Transportation ("ADOT") prior to approval of a final site plan for the development of the Property and the issuance of any permit for work on the Property; and

8. The traffic study and the conceptual site plan contemplate access to the Property from the "Common Drive" off of MC85, which drive is located on the adjacent property. Prior to approval of a site plan for the Property or the issuance of any permit for work on the site, Owner shall demonstrate that the Common Drive provides legal access to the Property; and

9. Prior to approval of a site plan for the Property or the issuance of any permit for work on the site, whichever is earlier, Owner shall provide emergency access easements needed for two points of access for emergency services that meet all applicable development regulations, including but not limited to the requirements in standards and requirements set forth in the City of Goodyear Engineering Design Standards and Policy Manual and access requirements in the city's fire code. The easement shall be conveyed at no cost to the city, and shall be lien free, free of all encumbrances unless agreed to by the city attorney or his designee, and in a form provided by the city attorney or his designee; and

10. No site plan shall be approved for the development of the Property and no construction permits shall be 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 site plan and/or construction permit. This includes, but is not limited to, approvals and/or easements that may be needed from Maricopa County Department of Transportation, Buckeye Irrigation District, and the Flood Control District of Maricopa County. All required approvals and easements shall be in a form acceptable to the City Engineer or his/her designee; and

11. Owner shall construct, at Owner's sole cost and expense, all on-site and off-site infrastructure improvements determined by the City as being necessary to provide water service and wastewater service to the Property; and

12. The City's obligation to provide water and sewer service to the Property is limited to the flow volumes reflected in the water reports and sewer reports for the Property approved by the City Engineer or designee. If the flow volumes of water and/or sewer exceed the flow volumes reflected in the approved water reports and/or approved sewer reports the city shall be entitled to terminate service to the Property until Owner submits updated reports to the City that addresses: (i) the capacity of the existing infrastructure to deliver the additional wastewater flows to the 157th Avenue Water Reclamation Facility; (ii) the availability of uncommitted capacity at the city's 157th Avenue Water Reclamation Facility to accept and treat the additional wastewater flows: (iii) the availability of an uncommitted potable water supply; and (iv) the capacity of existing water delivery lines to deliver the additional water flows to the Property(the "Updated Report(s)"). The Updated Report(s) shall identify all additional infrastructure that needs to be constructed for the city to accept the increased flow volumes of wastewater at the 157th Avenue Water Reclamation Facility and to deliver the increased flow volumes of water to the Property. The city shall have no obligation to provide service to accommodate the flow volumes in the Updated Reports unless there is: an uncommitted water supply sufficient to provide the additional water flows, uncommitted capacity at the 157th Avenue Water Reclamation Facility to accept the wastewater flows reflected in the Updated Report(s) and until Owner, at Owner's sole cost and expense, has completed the construction of the infrastructure identified in the Updated Report(s) and has conveyed all real estate interests (lien free and free of all encumbrances unless agreed to by the City Engineer or designee), required for the construction of such infrastructure.; and

13. 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; and

14. Owner shall, at no cost to the City, complete the construction of the full half-street improvements for the western section of S. Cotton Lane along the frontage of the Property required for a scenic arterial as set forth in the City of Goodyear Engineering Design Standards and Policy Manual in effect at the time of construction (the "EDS&PM"), including, but not limited to: paving, a bus bay as required in the EDS&PM (Section 4.3.2.A & COG Std. Dtl. G-3230, G-3242), deceleration lanes if required in the EDS&PM, sidewalks, landscaping, landscape irrigation, street lights, signing and striping. Owner shall, at no cost to the city, convey to the City of Goodyear, in fee, lien free, and free of all encumbrances unless expressly agreed to by the City Engineer or his/her designee, all right-of-way required for the street improvements Owner is required to construct herein. The dedication of the right-of-way required herein shall be made prior to the approval of the Site Plan for the Property or when requested by the City Engineer or his designee, whichever is earlier. No certificates of completion, temporary certificates of occupancy or certificates of occupancy shall be issued for any structure within the Property until the improvements to Cotton Lane described herein have been completed and accepted by the City Engineer or his designee subject to completion of the two-year warranty period; and

15. Ingress and Egress on Cotton Lane is limited to right-in right-out. If access to the Property is to be provided from Cotton Lane, a concrete deceleration lane shall be constructed for each such access point as required in the EDS&PM (4.1.3.K.6.b & COG Std. Dtl. G-3215, G-3230) ("Driveway Deceleration Lane(s)"). Unless Owner obtains approval of a Waiver from the City Engineer or his designee pursuant to the process set forth in the EDS&PM prior to or concurrent with the submittal of a site plan or construction documents for the development of the Property, whichever is earlier, the site plan or construction drawings shall be designed so that the bus bay that is to be constructed shall not be combined with any required driveway deceleration lane; and

16. In addition to constructing the infrastructure improvements specifically identified herein, 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 the City, and Engineering Design Standards and Policy Manual (EDS&PM) in effect at the time of construction; 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, the conditions and stipulations of approval set forth in Ordinance 2019-1451, and all other federal, state and locals laws, ordinances, rules, regulations, standards, and policies applicable to the development of the Property.

FISCAL IMPACT:

Although a fiscal impact analysis has not been conducted on this specific project, all new development will have an ongoing fiscal impact to the city. The development is responsible for construction of all infrastructure necessary to serve the site and will generate one time revenue for the city through payment of permits, construction sales tax and development impact fees. Longer term fiscal impacts including increased demands for municipal services, the costs of which may or may not be offset by the increased property values/tax levies, city sales tax, state shared revenues and the increased demand for commercial and retail development. Any areas that will be maintained by the city are constructed by the developer and then conveyed to the city two years after construction.

BACKGROUND AND PREVIOUS ACTIONS:

In October of 2019, the larger 696 acre site known as Lakin Park was rezoned from Agricultural Urban (AU) to the current Planned Area Development (PAD). At that time, uses were assigned to each parcel and this parcel was designated for commercial and industrial uses. This was approved under Ordinance 2019-1451.

The Planning and Zoning Commission considered this item at their regular meeting held on September 14, 2023. Commissioners voted unanimously (5-0) to forward a recommendation of approval to the City Council as originally presented to the Planning and Zoning Commission.

STAFF ANALYSIS:

Current Policy

A Use Permit requires review by the Planning and Zoning Commission and approval by the City Council following required public hearings. The process for review of a Use Permit is set forth in section 1-3-2 of the Goodyear Zoning Ordinance and in the City of Goodyear Administrative Process Manual.

Details of the Request

The applicant is requesting approval of a Use Permit to allow the development of convenience store with gas station. The property is located at the Southwest corner of MC-85 and S. Cotton Lane, within the Lakin Park Planned Area Development. The Property is zoned Planned Area Development (PAD) with an underlying land use of Commercial / Industrial Flex Zone. Under the PAD zoning, the development standards for the C-2 (General Commercial) zoning district as set forth in the Goodyear Zoning Ordinance apply to the Property except as modified in this PAD.

The Conceptual Site Plan for the Lakin Park Convenience Store, attached hereto, includes an approximately 4,850 square-foot convenience store with a combined 6,452 square-foot fuel canopy area (2 canopies), with the ability to serve up to 10 automobiles and 5 commercial vehicles at a time. The on-site parking, as reflected in the Preliminary Site Plan for Lakin Park Convenience Store, attached hereto, conforms with applicable

city standards. As shown on the building elevations submitted with the use permit, the design for the building will utilize a variety of materials and colors including brick and stone. Although not being approved, development of the permitted use is required to be in substantial conformance with the Conceptual Site Plan, the Conceptual Landscape Plan, and the Conceptual Building and canopy Elevations attached hereto.

Evaluation Criteria

Section 1-3-2 (Use Permits) of the Zoning Ordinance requires that the Planning and Zoning Commission and City Council determine that the proposed use meets the following findings prior to granting a Use Permit:

1. The Use Permit will not be materially detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare;

   As described in the materials provided with the use permit, the proposed use should not generate excessive odors, noise, or light to the detriment of the surrounding area. Traffic impacts have been reviewed and determined to be in conformance with the roadway capacity and improvements in the area. The property is surrounded by industrial uses and agricultural uses. Immediately adjacent to the west of the property is the recently constructed South Cotton Goodyear Warehouse (Site Plan 20-600-0021) consisting of 1,264,234 square feet of industrial warehouse space.

2. The proposed use is reasonably compatible with the uses permitted in the surrounding areas;

   The proposed use is located within a commercial / industrial area intended for such uses. Construction was approved for the South Cotton Goodyear Warehouse just west of the proposed project in 2020 (Site Plan 20-600-0021). There is a proposed rezoning for an industrial warehouse on the North side of MC-85, North West of this project. In addition the site will be able to provide fuel and convenience services to the existing and future businesses, where no such uses exist today.

Section 4-2-2 (Convenience Uses) of the Zoning Ordinance provides the following additional evaluation criteria for convenience uses regarding their potential impact on traffic congestion, the neighborhood in general, and their appropriateness for the site;

1. Adequacy of the parcel size and configuration to provide for proper access and internal circulation.

   The approximately 5.22 acre site is of sufficient size and configuration to accommodate the proposed convenience store and fueling stations. If approved, the proposed access and internal traffic circulation pattern have been designed to meet minimum standards for a project with these proposed uses.

2. Compatibility of the proposed hours of operation with adjacent residential areas.

The proposed convenience store and fueling station is proposed to be open 24 hours per day, 7 days per week. Given that the proposed use is located among proposed and existing industrial and commercial uses, this location meets the compatibility standard in the Zoning Ordinance.

3. Required traffic mitigation measures, if any;

   A traffic study was submitted with the application for the Use Permit. The traffic study has been approved by the City Engineer but requires approval of MCDOT and ADOT. The traffic study reflects ingress and egress to and from the Property is contemplated to be provided from Cotton Lane and a common shared drive to the west of the Property from MC-85.

   Offsite street and access improvements adjacent to the site will be completed by the developer.

4. Other concerns, which may place the advisability of the proposed convenience use in question.

   Staff has found no additional concerns with the development of a Convenience and Fueling Use on the property.

Economic Development has also reviewed the corner signage proposed and had no comments. It should be noted that the entire Lakin Park PAD will need to complete a Comprehensive Sign Package prior to the issuance of any sign permits. Stipulation 5 was added to address this requirement.

Fire Department

Emergency response times and distances are provided below:

Nearest Fire Station	Response Time			2nd Nearest Fire Station	Response Time	
	Minutes	Miles			Minutes	Miles
#184	6.86	3.43		#182	8.27	4.14

Public Participation

In accordance with the city's Citizen Review Ordinance, an alternative notification process was used for the use permit request. A formal citizen review meeting was not involved; however, a notice was mailed to all property owners within 500 feet of the property. Staff has not received any public comments related to this application.

The Planning and Zoning Commission considered this item at their regular meeting on September 13, 2023. Upon conclusion of the staff presentation, the commission asked staff

about access from Common Drive to Cotton Lane. Staff clarified that there may be access onto Cotton Lane from the Common Drive, however final access will be determined by ADOT when the designs for the loop 303 are finalized and may change from the proposed conditions. Staff also clarified and stated that there is only one residential property in proximity to this project and it is a farm house located within the storage and maintenance yard for the farm east of the proposed site. The applicant gave a brief presentation and indicated that the intent of this project is to provide services to the businesses and employees in the immediate area. The Vice-Chairman called for any public comment and staff indicated that there were no members of the audience who wished to speak on this case. The Commission then unanimously voted (5-0) to forward a recommendation of approval to the City Council.

STAFF FINDINGS

As outlined herein, staff finds that the proposed request for the Use Permit to not be materially detrimental to businesses and uses in the surrounding area, nor proposed future uses in addition to not being an impact to the public welfare and that the proposed use is compatible with the uses permitting in the surrounding area. Staff further finds that the request for a Use Permit will meet the additional evaluation criteria for convenience uses as established in Section 4-2-2 of the Zoning Ordinance.

ATTACHMENTS:

1. Aerial Photo
2. Conceptual Site Plan
3. Revised landscape Plans
4. Conceptual Building Elevations – Color
5. Conceptual Fuel Canopy Elevations – Color
6. Project Narrative

esencia Architecture and Urban Design
1743 E McNair Dr Ste 200 Tempe Arizona 85283
www.esencia.org T 480.755.0959 F 480.755.0956

August 9, 2023

City of Goodyear
Planning & Zoning
14455 W. Van Buren St. Suite D101
Goodyear, AZ 85338

Regarding: **Project Narrative**
Use Permit
Lakin Park Convenience Store
S.W.C. MC-85 and Cotton Lane

Dear Planning and Zoning,

CP2004 Station 4, LLC would like to submit the following conditional use permit application and supporting documents for a new fuel station and convenience store within the Larkin Industrial Park at the southwest corner of MC-85 and Cotton Lane. The parcel is within the Larking Park PAD overlay Flex Zone and will follow the C-2 General Commercial Development Standards. The fuel station will consist of a convenience store and two separate fuel canopies. The proposed 5.22-acre property is located at the vacant corner located at the southwest corner of Maricopa County State Route 85 and Cotton Lane. The project will service the existing surrounding community and industrial buildings as well as existing traffic in the area.

Access to this property will be from existing shared access driveways; one located on Cotton Lane and a second located on MC-85. These two driveways will also service the existing industrial building located west of this project. A new right-in/ right-out driveway and deceleration lane is planned for southbound Cotton Lane as originally planned for this overall corner and will provide direct access to the parcel from Cotton Lane. The property is currently vacant with a large industrial warehouse built behind this parcel on the same corner. The two other corners of this intersection are vacant, and a large industrial warehouse is operating at the northeast corner of the intersection. This commercial fuel station and convenience store is compatible with Larkin Park as well as the existing commercial area and will be an asset to the surrounding properties.

The facility will have three structures planned for the property consisting of a freestanding convenience store, a separate auto fuel canopy with six fueling dispensers and a second fuel canopy for larger vehicles with four fueling positions. The convenience store is set in the center of the property and fronted by parking on three sides with the auto fuel canopy located to the north of the property and the truck fuel canopy on the south of the property. This site allows ample space for the expected traffic flow and creates safe and comfortable on-site traffic circulation. The large vehicle fueling canopy will be located at the west side of the property to provides a more efficient ingress/egress to the shared common drive. Larger vehicles can egress to MC-85 or Cotton Lane by accessing the existing shared driveway located along the western property line. This location for the fuel canopy will create a better traffic flow and separation from smaller vehicles around the convenience store. Large vehicles can park for a short term on the west and south end of the property. **A**menities such as propane sales and an air and water station will be located on the property as well. This equipment will be screened from the roadway with a masonry wall that will match the building character.

The facility will be open 24 hours a day, 7 days a week and will serve convenience items within the store such as food and drinks. This facility will service existing traffic in the area and will not increase or generate additional volume, additional noise or pollution to the area. Vehicular access to the facility will be from the two major arterial roadways via shared and direct access driveways on MC-85 and Cotton Lane. This facility is anticipated to open in the fall of 2023.

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The noise and lighting levels will be consistent with the existing traffic and street conditions adjacent to this site. Lighting for the site and canopy will be in compliance with the current City of Goodyear standards and guidelines. There is no excessive noise machinery or equipment that is part of this project. There is no residential or multi-family residential projects near this project. CP2004 Station 4, LLC will strive to mitigate any future issues that may arise during operations.

This project will not be detrimental to persons residing or working in the vicinity of this property. The surrounding area is industrial and commercial in nature with no residential neighborhoods in the area. This project will be a welcome addition to the community and bring an asset to the Lakin Park area that is missing. It will serve the existing industrial businesses and local traffic and help improve the public welfare in that area.

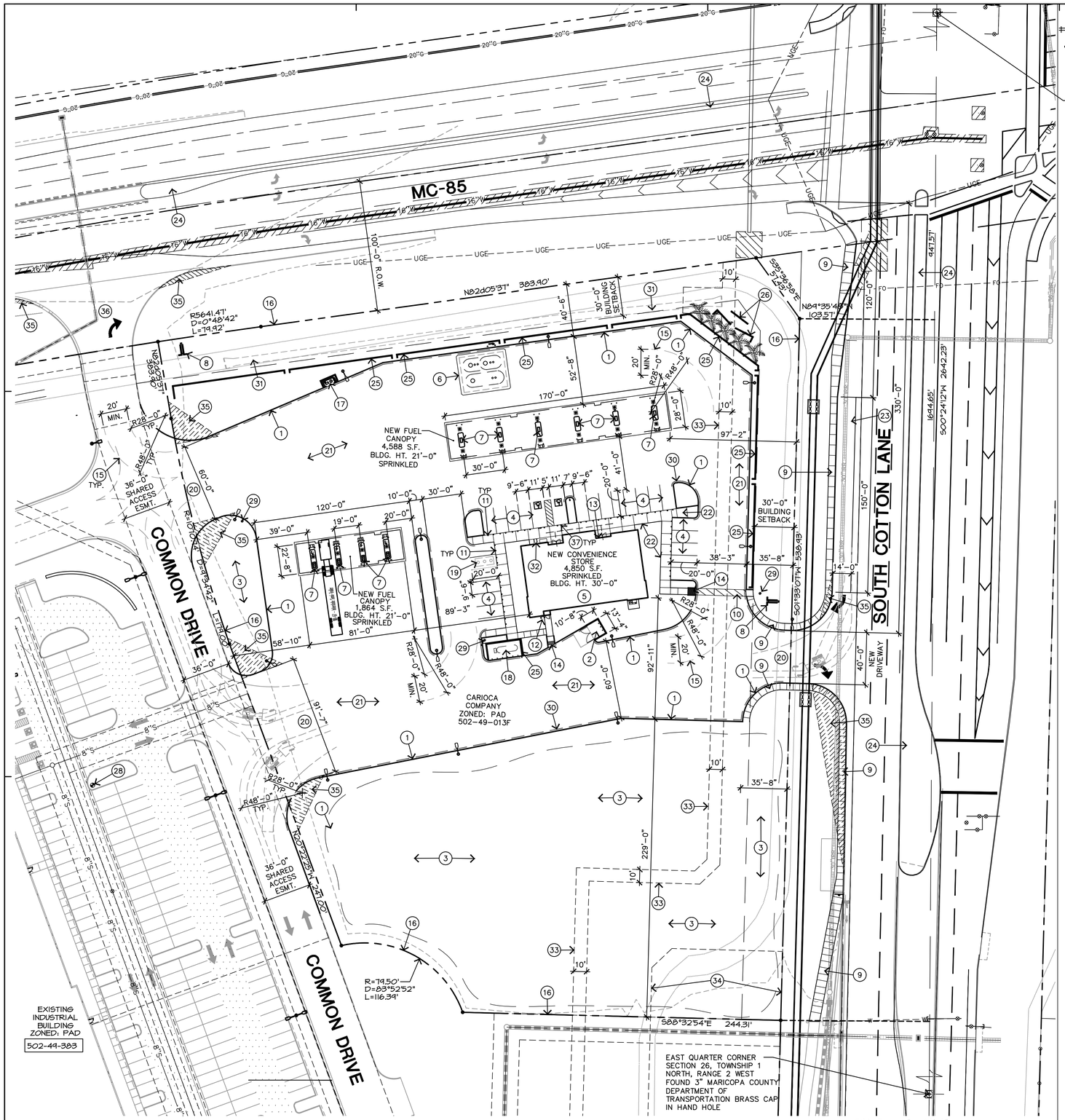
As per the Zoning Ordinance, a special use permit is necessary for “convenience use”. The fuel station and convenience store will provide convenience to the community and will benefit everyone in the area. Other fuel and convenience stores are not within the vicinity of this location. We feel this project will be compatible with the commercial and industrial adjacent properties. There is no residential property near this parcel and is located on two major arterial roadways. The property is part of the planned Larkin Park for large industrial and commercial uses. This parcel is currently surrounded by industrial buildings and open fields but will be filled in quickly.

This use and this location is in compliance with the City of Goodyear General Plan and direction of the city. Vehicle access to the property is directly from two major arterial streets with no direct access into the surrounding neighborhood. The project will not generate excessive noise or light to the surrounding properties and the overall project size and building height is small compared to the surrounding warehouse project in the area. The facility will be open 24 hours a day and seven days a week to serve the community.

The 5.22 acre parcel is more than adequate for this type of project and allows for ample retention and landscaping throughout the property. Vehicle access and circulation is excellent. The building architecture will be compatible with the surrounding industrial projects and standards set for by the Larkin Park Guidelines. The materials will consist of stucco exterior with exposed masonry block metal awnings for shade and native landscaping.

We are excited about this project and feel that this project up-holds the City of Goodyear standards and represents CP2004 Station 4, LLC in a professional manner.

Jeff Winter
Esencia



1 SITE PLAN
SCALE: 1" = 40'-0"

FIRE DEPARTMENT NOTES

- FIRE DEPARTMENT DOES NOT ALLOW SPEED BUMPS OR ANY OBSTRUCTIONS THAT MAY IMPEDE AN EMERGENCY VEHICLE REPONSE ON A FIRE DEPARTMENT ACCESS ROADWAY.

SITE PLAN NOTES

1. 6" H. CAST IN PLACE CONCRETE CURB (TYP.)
2. NEW MASONRY TRASH ENCLOSURE WITH ACCESS DOOR AND GATE. SEE DETAIL 4 ON SHEET A-13.
3. AREA OF NEW LANDSCAPE AND/OR RETENTION AREA. REFER TO LANDSCAPE DRAWINGS.
4. VEHICLE PARKING STRIPING AS TO CITY OF GOODYEAR STANDARDS.
5. NEW SINGLE STORY CONVENIENCE STORE. SEE BUILDING ELEVATIONS
6. NEW UNDERGROUND FUEL TANKS WITH CONCRETE DRIVE SLAB. SEE SEPARATE FUEL PLANS.
7. NEW FUEL DISPENSER SET ON CONCRETE ISLAND WITH PROTECTIVE BOLLARDS. SEE ENLARGED FUEL PLAN.
8. NEW GROUND MOUNTED MONUMENT SIGN. SIGNAGE UNDER SEPARATE PERMIT
9. NEW PEDESTRIAN SIDEWALK CONNECTION TO PUBLIC RIGHT OF WAY.
10. NEW PAVING W/ STRIPPED PATHWAY.
11. NEW PAINTED BOLLARDS AT FLUSH CURB CONDITION. COLOR: BLACK.
12. BUILDING WALL MOUNTED FDC CONNECTION.
13. KNOX BOX LOCATION.
14. ADA ACCESSIBLE CURB RAMP.
15. TURNING RADIUS AS SHOWN ON PLAN.
16. LOCATION OF EXISTING PROPERTY LINE.
17. CUSTOMER AIR LOCATION. PROVIDE ELECTRIC TO UNIT. SEE DETAIL 1 ON SHEET A-13.
18. NEW ABOVE GROUND PROPANE STORAGE TANK AND DISPENSER. PROVIDE CONCRETE SLAB ON GRADE WITH PROTECTIVE BOLLARDS AT OPEN SIDE OF TANK.
19. LOCATION OF GREASE INTERCEPTOR.
20. PROPOSED NEW DRIVEWAY LOCATION.
21. NEW ASPHALT VEHICLE DRIVE AISLE .
22. NEW CONCRETE SIDEWALK AND TRAIL. A.D.A. COMPLIANT SIDEWALK, 4" THK. CONC. ATOP A.B.C. FILL. NOTE: WHERE SIDEWALK ABUTS BUILDING, SLOPE AWAY FROM BUILDING FOR PROPER WATER DRAINAGE.
23. PROPOSED NEW DECELERATION/RIGHT TURN LANE AND STRIPING.
24. EXISTING RAISED MEDIAN TO REMAIN.
25. MASONRY WITH STUCCO FINISH SCREEN WALL. SEE ENLARGED ELEVATION AND WALL PLAN DETAIL 1/A-15.
26. NEW LAKIN PARK MONUMENT SIGN. SEE ENLARGED ELEVATION AND WALL PLAN DETAIL 11/A-13.
27. TRUCK PARKING STRIPING AS TO CITY OF GOODYEAR STANDARDS.
28. EXISTING FIRE HYDRANT TO REMAIN.
29. PROPOSED LOCATION OF NEW FIRE HYDRANT.
30. DASHED LINE INDICATING PROPOSED LOCATION OF FIRE LANE.
31. DASHED LINE INDICATING EXISTING OPEN IRRIGATION TRENCH TO BE REMOVED.
32. LOCATION OF BICYCLE PARKING.
33. EXISTING 10'-0" TEMPORARY CONSTRUCTION EASEMENT PER DOC. NO. 2006-1153901, MCR.
34. EXISTING DRAINAGE EASEMENT PER DOC. NO. 2006-1153900, MCR.
35. SITE VISIBILITY TRIANGLES.
36. EXISTING DRIVEWAY TO REMAIN.
37. INSTALL NEW STANDARD A.D.A. ACCESSIBLE SIGN INCLUDES A CITATION OF THE ARIZONA REVISED STATUES.

LEGEND

	SITE LIGHT POLE AND FIXTURE
	SIGN
	MONUMENT SIGN
	UNDERGROUND WATER
	IRRIGATION MANHOLE
	FIRE HYDRANT
	EASEMENT LINE
	BUILDING SETBACK
	UNDERGROUND COMMUNICATION
	PROPERTY LINE
	PAVEMENT STRIPING
	UNDERGROUND SEWER
	IRRIGATION
R.O.W.	RIGHT-OF-WAY
TCE	TEMPORARY CONSTRUCTION EASEMENT
UGE	UNDERGROUND ELECTRICAL
APN	ASSESSOR PARCEL NUMBER

Contact Arizona 811 at least two full working days before you begin excavation
ARIZONA811 BLUE STAKE, INC.
Call 811 or click Arizona811.com

esencia

1743 E. McNair Drive, Suite 200
Tempe, Arizona 85283
t. 480 - 755 - 0959

Project Manager	ES
Drawn By	ES
Checked By	ES
Project Number	23014

REGISTERED ARCHITECT
CERTIFICATE NO.
30796
JEFFREY W.
WINTER
Date 4/09/2023
Signed
ARIZONA, U.S.A.

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LAKIN PARK CONVENIENCE STORE

CARIOCA CO.

SECTION 26, TOWNSHIP 1 NORTH, RANGE 2 WEST
SWC MC85 AND SOUTH COTTON LANE
GOODYEAR, ARIZONA 85338

Revisions	
Date	Issued for
4-28-2023	P & Z Submittal

SITE PLAN

A-11

GENERAL NOTES

A. ALL SIGNS SHALL BE PART OF A SEPARATE SUBMITTAL PROCESS, AND SEPARATE PERMIT APPROVAL PROCESS.

B. SIGN CONTRACTOR SHALL PROVIDE OWNER WITH SIGN SHOP DRAWINGS FOR APPROVAL PRIOR TO FABRICATION OF ALL SIGNS, AND SUBMITTAL OF SIGN PERMIT.

C. SIGN CONTRACTOR SHALL BE RESPONSIBLE FOR ALL SUBMITTALS AND PERMITTING OF OWNER APPROVED SIGN SHOP DWGS. PRIOR TO FABRICATION OF SIGNS.

D. SIGN CONTRACTOR SHALL FIELD-VISIT THE SITE AND COORDINATE THE LOCATION OF ALL J-BOXES AND CONDUIT RUNS WITH THE G.C. DURING ELECTRICAL ROUGH-IN PHASE OF CONSTRUCTION.

E. THE G.C. SHALL PROVIDE J-BOXES AND EMPTY CONDUIT WITH PULL-STRING TO SIGN LOCATION FROM POWER SOURCE. ALL FINAL WIRING AND SIGN INSTALLATION BY SIGN CONTRACTOR.

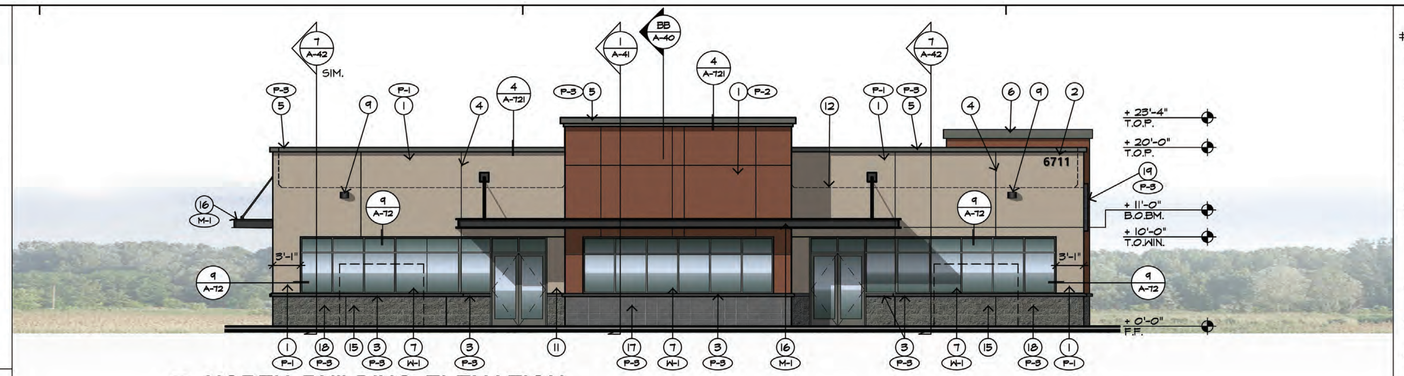
F. STUCCO SHALL BE IN CONFORMANCE WITH ASTM C-926 REQUIREMENTS AND SPECIFICATIONS. TEXTURE TO MATCH EXISTING CENTER.

G. FUEL CANOPY BRANDING / COLOR BY OTHERS, SHOWN FOR COORDINATION PURPOSES ONLY.

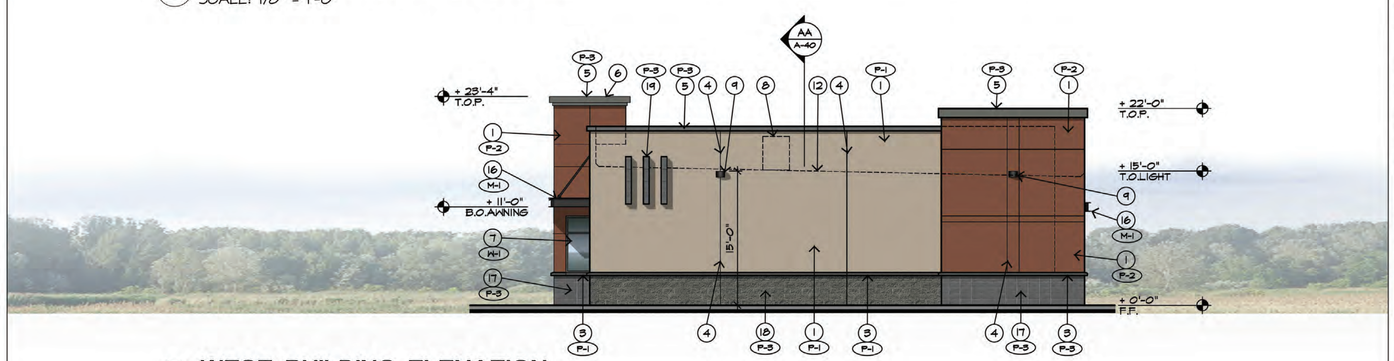
EXTERIOR FINISHES

F1. STUCCO SYSTEM: WESTERN ONE KOTE STUCCO SYSTEM OVER 1" INSULATION BOARD WITH WIRE MESH AND FIBER REINFORCED FIRST COAT W/ SYNTHETIC FINISH COAT OVER SUBSTRATE ON WOOD FRAMED WALL. TEXTURE TO BE SAND FINISH PER REPORT NO: ESR-382.

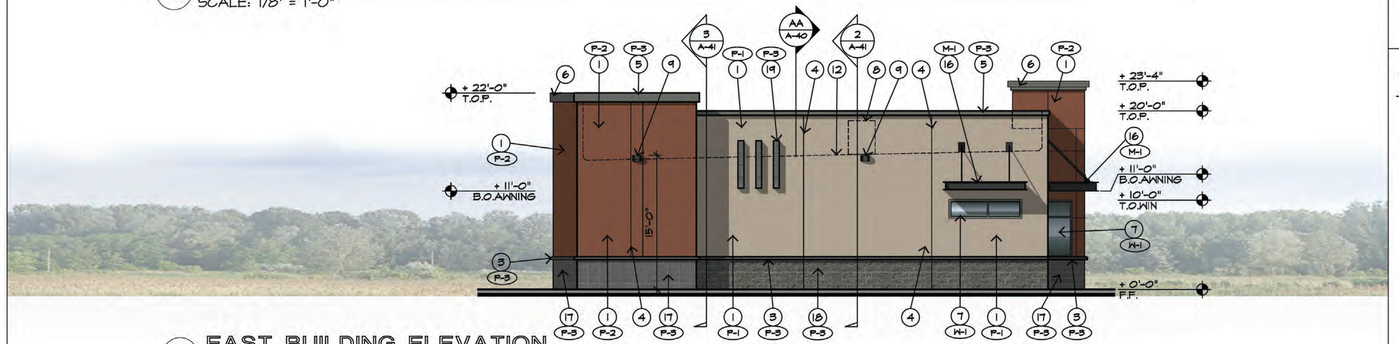
F2. WEATHER BARRIER SHALL BE SYNTHETIC UNDERLAYMENT "TITANIUM" UDL 25 LB. COMPLY WITH MANUFACTURERS INSTALLATION GUIDELINES. CLASS A ASTM E-108. MEETS AND EXCEEDS ASTM D226 TYPES I & II. ICC CSA A220.1



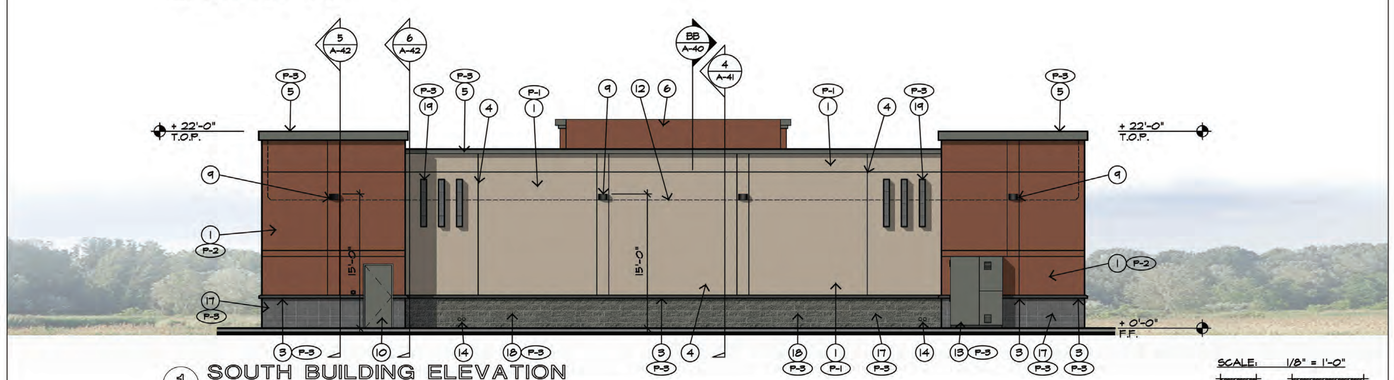
4 NORTH BUILDING ELEVATION
SCALE: 1/8" = 1'-0"



3 WEST BUILDING ELEVATION
SCALE: 1/8" = 1'-0"



2 EAST BUILDING ELEVATION
SCALE: 1/8" = 1'-0"



1 SOUTH BUILDING ELEVATION
SCALE: 1/8" = 1'-0"

SCALE: 1/8" = 1'-0"
0' 4' 8' 16'

KEYNOTES

1. STUCCO SYSTEM WITH SAND FINISH OVER FRAMED EXTERIOR. SEE EXTERIOR FINISHES.
2. 12" HIGH SURFACE MOUNTED HALO ILLUMINATED ADDRESS NUMBERS. BLACK IN COLOR
3. 4" HIGH MASONRY ACCENT BAND / WINDOW SILL WITH SMOOTH FINISH. MAINTAIN SLOPE AWAY FROM WINDOW OR BUIDLING. SEE DETAIL
4. STUCCO REVEAL / CONTROL JOINT.
5. RIGIID FOAM WITH STUCCO FINISH ACCENT CORNICE.
6. BUILDING TOWER BEYOND.
7. 4 1/2" ALUMINUM STOREFRONT WITH CENTERED WINDOW SYSTEM WITH INSULATED DUAL PANE GLAZING. PROVIDE TEMPERED GLASS WHERE REQUIRED. PROVIDE MIN. 10" HIGH BOTTOM RAILS AT ALL DOORWAYS.
8. ROOF MOUNTED MECHANICAL EQUIPMENT BEYOND. SEE ROOF PLAN FOR FINAL LOCATION. SEE ROOF PLAN
9. EXTERIOR MOUNTED LIGHT FIXTURE. SEE ELECTRICAL. TOP OF LIGHT TO BE AT 15'-0" A.F.F.
10. EXTERIOR HOLLOW METAL DOORWAY AND FRAME. SEE DOOR SCHEDULE
11. KNOX BOX LOCATION..
12. LINE OF ROOF BEYOND.
13. FREE STANDING EXTERIOR RATED SERVICE ENTRY SECTION CABINET BEHIND STEEL GATES PER DETAIL 11/A7.1.
14. ROOF DRAIN AND OVERFLOW OUTLETS WITH BRASS LAMBS TONGUE. PROVIDE RIP RAP PER CIVIL PLANS.
15. AREA OF EXTERIOR MERCHANDISER EQUIPMENT. PROVIDE ELECTRICAL AND WATER AS REQUIRED.
16. STEEL 'C' CHANNEL CANOPY WITH STEEL SUPPORT ARMS AND EXPOSED MOUNTING PLATES PER DETAIL, PAINTED.
17. EXPOSED 8"X16" SMOOTH MASONRY VENEER STANDING BOND PATTERN OVER WOOD FRAME AND VAPOR BARRIER. PAINTED FINISH.
18. EXPOSED 8"X16" SPLIT-FACE MASONRY VENEER OVER WOOD FRAME AND CONTINUOUS VAPOR BARRIER. PAINTED FINISH.
19. EXPOSED 8X8X16 SMOOTH BLOCK VERTAICALLY OFFSET FROM WALL. PAINTED FINISH

PAINT & FINISH SCHEDULE

CODE	IDENTIFIER	BRAND/COLOR #	NAME
P-1	STUCCO BODY	DUNN EDWARDS DET 624	SORREL FELT
P-2	STUCCO ACCENT	DUNN EDWARDS DE 6091	RED HOOK
P-3	MASONRY ACCENT	DUNN EDWARDS DET 624	FADE TO BLACK
M-1	METAL	CMG 24g	MATTE BLACK
W-1	STOREFRONT ALUMINUM	SOUTHWEST ALUM. CLEAR GLAZING	STD. CLEAR ANNODIZED AA-M12C22A31 / AAMA 611 ARCHITECTURAL/ CLASS II
TEMP	TEMPERED GLASS	WHERE REQ'D. BY CODE	

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Tempe, Arizona 85283
t. 480 - 755 - 0959

Project Manager	ES
Drawn By	ES
Checked By	ES
Project Number	23014

REGISTERED ARCHITECT CERTIFICATE NO. 30796 JEFFREY W. WINTER Date 8/09/2023 Signed ARIZONA, U.S.A.

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LAKIN PARK CONVENIENCE STORE

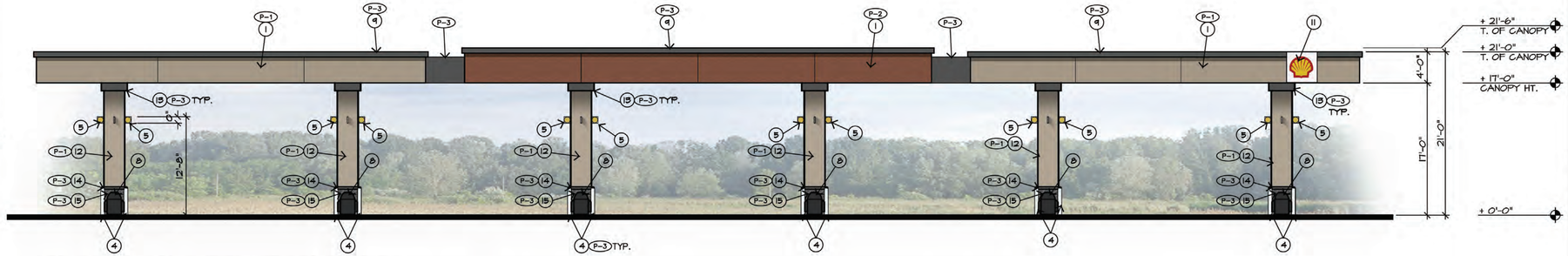
CARIOCA CO.

SWC MC85 AND SOUTH COTTON LANE
GOODYEAR, ARIZONA 85338

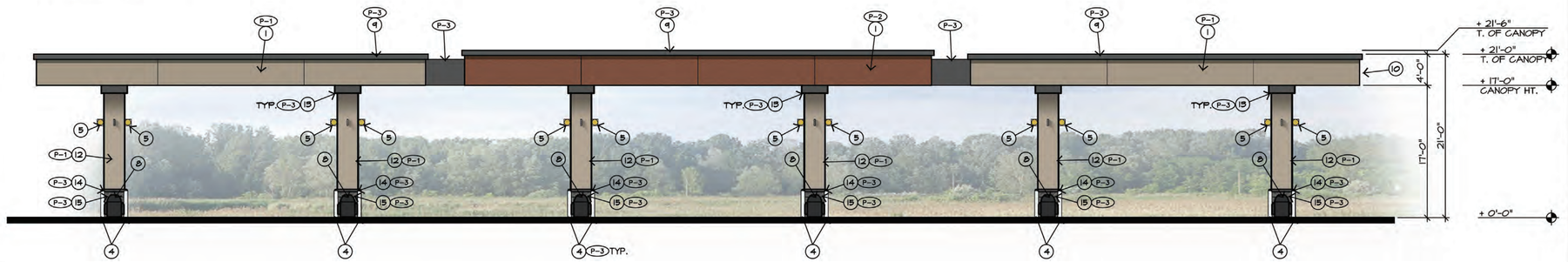
Revisions	
Date	Issued for
4-28-2023	P & Z Submittal

EXTERIOR BUILDING ELEVATIONS

A-30



1 NORTH CANOPY ELEVATION
SCALE: 1/8" = 1'-0"



2 SOUTH CANOPY ELEVATION
SCALE: 1/8" = 1'-0"



3 EAST CANOPY ELEVATION
SCALE: 1/8' = 1'-0"

4 WEST CANOPY ELEVATION
SCALE: 1/8' = 1'-0"

KEYNOTES

1. PRE-FINISHED ACM METAL FASCIA BY CANOPY MANUFACTURER. SEE PAINT AND FINISH SCHEDULE.
2. MULTI-PRODUCT FUEL DISPENSER. NOTE: HEIGHT OF ALL CONTROLS AND CARD READER SHALL BE 54" MAX. OR DISPENSER SHALL BE EQUIPPED WITH ALTERNATE A.D.A. COMPLAIN KEY PAD.
3. NOT USED.
4. 6" DIA. STEEL CONCRETE FILLED PIPE BOLLARD 42" HIGH. PAINTED GRAY TO MATH BUILDING. BOLLARD TO BE SAND GROUTED IN SLEEVE.
5. DISPENSER IDENTIFICATION FLAG MOUNTED ON CANOPY COLUMN.
6. 6' HIGH CONCRETE CURB FUEL ISLAND.
7. ILLUMINATED DISPENSER SPANNER AT DISPENSER.
8. FLOOR MOUNTED ROUND, BLACK METAL TRASH RECEPTACLE WITH WINDOW WASHING VALET.
9. PRE-FINISHED ACM METAL FASCIA ACCENT CORNICE BY CANOPY MANUFACTURER. SEE PAINT AND FINISH SCHEDULE.
10. NOT USED.
11. SHELL PECTEN SIGN BOX. ELECTRICAL TO BE PROVIDED AT THIS LOCATION
12. PIERS WITH STUCCO FINISH. TEXTURE TO MATCH BUILDING.
13. E.F.I.S. FOAM CAP WITH STUCCO FINISH (TYP.). RE: DETAILS.
14. 4" HIGH MASONRY ACCENT BAND.
15. EXPOSED 8"X16" SPLIT-FACE MASONRY VENEER OVER WOOD FRAME AND CONTINUOUS VAPOR BARRIER. PAINTED FINISH.

GENERAL NOTES

A. ALL SIGNS SHALL BE PART OF A SEPARATE SUBMITTAL PROCESS, AND SEPARATE PERMIT APPROVAL PROCESS.

B. SIGN CONTRACTOR SHALL PROVIDE OWNER WITH SIGN SHOP DRAWINGS FOR APPROVAL PRIOR TO FABRICATION OF ALL SIGNS, AND SUBMITTAL OF SIGN PERMIT.

C. SIGN CONTRACTOR SHALL BE RESPONSIBLE FOR ALL SUBMITTALS AND PERMITTING OF OWNER APPROVED SIGN SHOP DWGS. PRIOR TO FABRICATION OF SIGNS.

D. SIGN CONTRACTOR SHALL FIELD-VISIT THE SITE AND COORDINATE THE LOCATION OF ALL J-BOXES AND CONDUIT RUNS WITH THE G.C. DURING ELECTRICAL ROUGH-IN PHASE OF CONSTRUCTION.

E. THE G.C. SHALL PROVIDE J-BOXES AND EMPTY CONDUIT WITH PULL-STRING TO SIGN J-BOX FROM POWER SOURCE. ALL FINAL WIRING AND SIGN INSTALLATION BY SIGN CONTRACTOR.

F. STUCCO SHALL BE IN CONFORMANCE WITH ASTM C-926 REQUIREMENTS AND SPECIFICATIONS. TEXTURE TO MATCH EXISTING CENTER.

G. FUEL CANOPY BRANDING / COLOR BY OTHERS, SHOWN FOR COORDINATION PURPOSES ONLY.

EXTERIOR FINISHES

F1. STUCCO SYSTEM: E.I.F.S. STUCCO SYSTEM OVER 1" RIGID INSULATION. MECHANICALLY ATTACH RIGID INSULATION OVER WEATHER BARRIER ON PLYWOOD FRAMING. TEXTURE & FINISH TO MATCH CENTER. REPORT NO. ESR-1543.

F2. WEATHER BARRIER SHALL BE SYNTHETIC UNDERLAYMENT "TITANIUM" UDL 25 LB. COMPLY WITH MANUFACTURERS INSTALLATION GUIDELINES. CLASS A ASTM E-108. MEETS AND EXCEEDS ASTM D226 TYPES I & II. ICC CSA A220.1

PAINT & FINISH SCHEDULE (#)

CODE	IDENTIFIER	BRAND/COLOR #	NAME
METAL PANEL COLORS PER APPROVED SIGNAGE PACKAGE			
P-1	CANOPY BODY	DUNN EDWARDS DET 624	SORREL FELT
P-2	CANOPY BODY	DUNN EDWARDS DE 6091	RED HOOK
P-3	CANOPY CORNICE	DUNN EDWARDS DET 624	FADE TO BLACK
P-1	COLUMN BODY STUCCO	DUNN EDWARDS DET 624	SORREL FELT
P-3	COLUMN BASE MASONRY	DUNN EDWARDS DET 624	FADE TO BLACK

APPROVALS

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Project Manager	ES
Drawn By	ES
Checked By	ES
Project Number	23014

REGISTERED ARCHITECT
CERTIFICATE NO.
30796
JEFFREY W. WINTER
Date 5/09/2023
Signed
ARIZONA, U.S.A.

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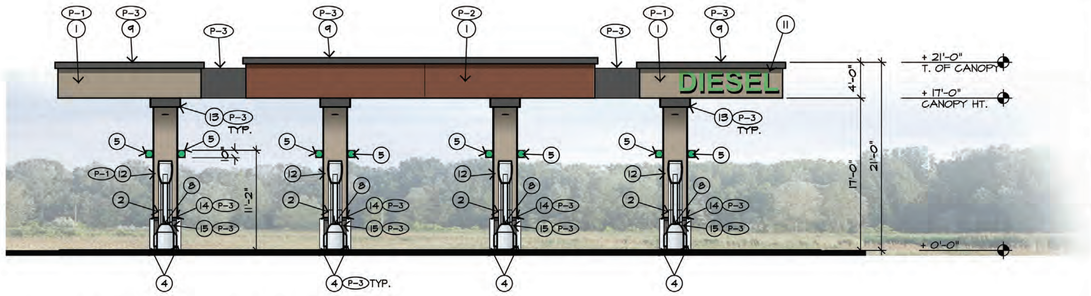
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CARIOCA CO.
SWC MC85 AND COTTON LANE
GOODYEAR, ARIZONA 85338

Revisions

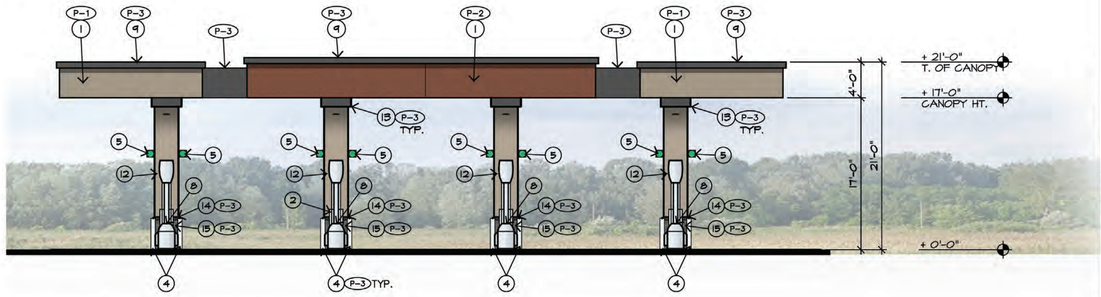
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AUTO FUEL CANOPY ELEVATIONS

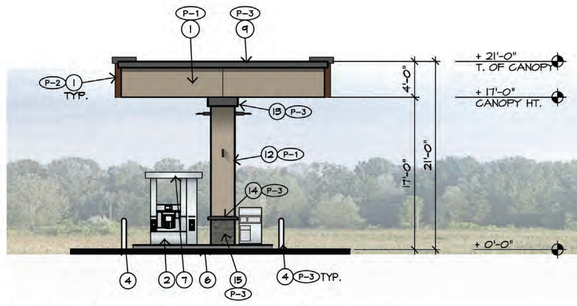
A-31



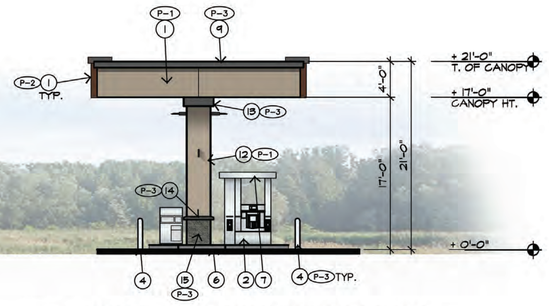
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4 WEST CANOPY ELEVATION
SCALE: 1/8' = 1'-0"

KEYNOTES

1. PRE-FINISHED ACM METAL FASCIA BY CANOPY MANUFACTURER. PROVIDE ILLUMINATED SHELL RVI IMAGE WITH ILLUMINATION ON FOUR SIDES.
2. MULTI-PRODUCT FUEL DISPENSER. NOTE: HEIGHT OF ALL CONTROLS AND CARD READER SHALL BE 54" MAX. OR DISPENSER SHALL BE EQUIPPED WITH ALTERNATE A.D.A. COMPLAIN KEY PAD.
3. NOT USED.
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7. ILLUMINATED DISPENSER SPANNER AT DISPENSER.
8. FLOOR MOUNTED ROUND, BLACK METAL TRASH RECEPTACLE WITH WINDOW WASHING VALET.
9. PRE-FINISHED ACM METAL FASCIA BY CANOPY MANUFACTURER. PROVIDE NON-ILLUMINATED SHELL RVI IMAGE WITH ILLUMINATION ON FOUR SIDES.
10. ILLUMINATED SHELL RVI IMAGE PACKAGE. SEE CANOPY COMPANY.
11. SHELL PECTEN SIGN BOX. ELECTRICAL TO BE PROVIDED AT THIS LOCATION
12. PIERS WITH STUCCO FINISH. TEXTURE TO MATCH BUILDING.
13. E.F.I.S. FOAM CAP WITH STUCCO FINISH (TYP.). RE: DETAILS.
14. 4" HIGH MASONRY ACCENT BAND.
15. EXPOSED 8"X16" SPLIT-FACE MASONRY VENEER OVER WOOD FRAME AND CONTINUOUS VAPOR BARRIER. PAINTED FINISH.

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G. FUEL CANOPY BRANDING / COLOR BY OTHERS, SHOWN FOR COORDINATION PURPOSES ONLY.

EXTERIOR FINISHES

F1. STUCCO SYSTEM: E.I.F.S. STUCCO SYSTEM OVER 1" RIGID INSULATION, MECHANICALLY ATTACH RIGID INSULATION OVER WEATHER BARRIER ON PLYWOOD FRAMING. TEXTURE & FINISH TO MATCH CENTER. REPORT NO: ESR-1543.

F2. WEATHER BARRIER SHALL BE SYNTHETIC UNDERLAYMENT "TITANIUM" UDL 25 LB. COMPLY WITH MANUFACTURERS INSTALLATION GUIDELINES. CLASS A ASTM E-108. MEETS AND EXCEEDS ASTM D226 TYPES I & II. ICC CSA A220.1

PAINT & FINISH SCHEDULE (#)

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P-1	COLUMN BODY STUCCO	DUNN EDWARDS DET 624	SORREL FELT
P-3	COLUMN BASE MASONRY	DUNN EDWARDS DET 629	FADE TO BLACK

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Project Manager: ES
Drawn By: ES
Checked By: ES
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GOODYEAR, ARIZONA 85338

Revisions

Date	Issued for
4-28-2023	P & Z Submittal

TRUCK FUEL CANOPY ELEVATIONS

A-32

LAKIN PARK CONVENIENCE STORE
CONCEPTUAL LANDSCAPE PLAN

CITY OF GOODYEAR
GENERAL NOTES FOR CONSTRUCTION

A. CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO CONSTRUCTION.
B. ALL CONSTRUCTION SHALL CONFORM TO THE CITY ENGINEERING DESIGN STANDARDS AND POLICIES MANUAL (EDS&PM), CITY STANDARD DETAILS, AND CURRENT MARICOPA ASSOCIATION OF GOVERNMENTS (MAG) UNIFORM STANDARD SPECIFICATIONS AND DETAILS FOR PUBLIC WORKS CONSTRUCTION.
C. THIS SET OF PLANS HAS BEEN REVIEWED FOR COMPLIANCE WITH CITY REQUIREMENTS PRIOR TO ISSUANCE OF CONSTRUCTION PERMITS. HOWEVER, SUCH REVIEW SHALL NOT PREVENT THE CITY FROM REQUIRING CORRECTION OF ERRORS IN PLANS FOUND TO BE IN VIOLATION OF ANY LAW OR ORDINANCE.
D. THE CITY DOES NOT WARRANT ANY QUANTITIES SHOWN ON THESE PLANS.
E. THE CITY APPROVAL IS FOR GENERAL LAYOUT IN THE RIGHT-OF-WAY ONLY. THIS APPROVAL IS VALID FOR A PERIOD OF ONE YEAR. CONSTRUCTION PERMITS SHALL BE OBTAINED DURING THIS PERIOD OR THE PLANS SHALL BE RESUBMITTED FOR REVIEW AND APPROVAL.
F. AN APPROVED SET OF PLANS SHALL BE AVAILABLE ON THE JOB SITE AT ALL TIMES.
G. THE CITY CONSTRUCTION INSPECTOR SHALL BE NOTIFIED **48 HOURS** PRIOR TO ANY CONSTRUCTION WORK AND INSPECTIONS (623-932-3004). CONSTRUCTION WORK CONCEALED WITHOUT INSPECTION BY THE CITY CONSTRUCTION INSPECTOR SHALL BE SUBJECT TO EXPOSURE AT THE CONTRACTOR'S EXPENSE.
H. ANY WORK PERFORMED WITHOUT THE APPROVAL OF THE CITY ENGINEER, OR DESIGNEE, AND ANY WORK/MATERIAL NOT IN CONFORMANCE WITH CITY ENGINEERING STANDARDS IS SUBJECT TO REMOVAL AND REPLACEMENT AT THE CONTRACTOR'S EXPENSE.
I. RIGHT-OF-WAY IMPROVEMENTS SHALL NOT BE ACCEPTED UNTIL "AS-BUILT" PLANS HAVE BEEN SUBMITTED AND APPROVED BY THE CITY. (SEE AS-BUILT REQUIREMENTS)
J. THE DEVELOPER IS RESPONSIBLE FOR THE REMOVAL OR RELOCATION OF ALL OBSTRUCTIONS WITHIN THE RIGHT-OF-WAY PRIOR TO STARTING NEW CONSTRUCTION.
K. THE DEVELOPER IS RESPONSIBLE FOR ARRANGING THE RELOCATION AND ASSOCIATED COSTS OF ALL UTILITIES. A UTILITY RELOCATION SCHEDULE SHALL BE SUBMITTED PRIOR TO THE ISSUANCE OF PERMITS.
L. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING OR DEDICATING ALL REQUIRED RIGHTS-OF-WAY AND EASEMENTS TO THE CITY PRIOR TO ISSUANCE OF PERMITS.
M. THE CONTRACTOR SHALL CONTACT BLUE STAKE (602-263-1100) AT LEAST **48 HOURS** PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL LOCATE ALL CONFLICTS PRIOR TO CONSTRUCTION.
N. THE CONTRACTOR SHALL BARRICADE CONSTRUCTION SITES AT ALL TIMES PER THE CITY OF PHOENIX TRAFFIC BARRICADE MANUAL. A TRAFFIC CONTROL PLAN SHALL BE SUBMITTED TO THE CITY FOR APPROVAL IN ADVANCE OF CONSTRUCTION.
O. POTABLE WATER IS NOT AVAILABLE FOR CONSTRUCTION USE OTHER THAN THE FILLING AND TESTING OF NEW LINES. THE UNLAWFUL REMOVAL OF WATER FROM A FIRE HYDRANT OR ANY OTHER SOURCE IS A VIOLATION OF THE MUNICIPAL CODE, PUNISHABLE BY FINE AND/OR IMPRISONMENT.
P. PRIOR TO MOVING OR DESTROYING PROTECTED NATIVE PLANT SPECIES, THE CONTRACTOR SHALL FILE A FORMAL NOTICE OF INTENT (NOI) WITH THE ARIZONA DEPARTMENT OF AGRICULTURE (602-542-6408).
Q. THE CONTRACTOR SHALL COMPLY WITH THE ENVIRONMENTAL PROTECTION AGENCY NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER REQUIREMENTS ESTABLISHED FOR CONSTRUCTION SITES, ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (ADEQ) GENERAL PERMIT FOR DISCHARGE FROM CONSTRUCTION ACTIVITIES, AND THE CITY OF GOODYEAR STORM WATER MANAGEMENT PLAN.
R. NO PERSON SHALL USE ANY MECHANICAL EQUIPMENT FOR LAND LEVELING OR CLEARING, ROAD CONSTRUCTION, TRENCHING, EXCAVATING, DEMOLITION, NOR ENGAGE IN ANY EARTHMOVING ACTIVITY WITHOUT FIRST OBTAINING A PERMIT FROM THE MARICOPA COUNTY AIR QUALITY DEPARTMENT (MCAQD) (602-506-0666), 1001 N. CENTRAL AVENUE, SUITE 150, PHOENIX, AZ 85003. (THIS NOTICE IS ISSUED PURSUANT TO ARIZONA REVISED STATUES (ARS) 36-779.07, NOTICE OF BUILDING AGENCIES.)
S. THESE PLANS REFLECT CONDITIONS AS THEY EXIST AT THE TIME OF DESIGN. IF EXISTING CONDITIONS HAVE CHANGED BY THE TIME OF CONSTRUCTION THE CONTRACTOR SHALL NOTIFY THE CITY AND THESE PLANS MAY HAVE TO BE AMENDED PRIOR TO PROCEEDING WITH CONSTRUCTION ACTIVITIES.
T. ALL IMPROVEMENTS DAMAGED OR REPLACED DURING CONSTRUCTION SHALL BE REPLACED WITH IMPROVEMENTS THAT MEET THE CURRENT CITY STANDARDS.

CITY OF GOODYEAR
GENERAL NOTES FOR LANDSCAPING

A. ALL GENERAL CONSTRUCTION NOTES SHALL APPLY.
B. ALL SIGNS, MONUMENT WALLS AND SITE LIGHTING REQUIRE SEPARATE BUILDING APPROVAL.
C. ALL FIRE HYDRANTS SHALL REQUIRE A 7-FOOT CLEARANCE IN ALL DIRECTIONS TO ANY NEW OR EXISTING LANDSCAPE.
D. SUBSTITUTIONS IN TYPE, AND/OR DEVIATIONS IN SIZE OR QUANTITY FROM THE APPROVED LANDSCAPE OR IRRIGATION PLANS SHALL NOT BE PERMITTED WITHOUT PRIOR WRITTEN APPROVAL FROM THE CITY OF GOODYEAR. (CONTACT THE CITY LANDSCAPE TECHNICIAN REGARDING ALL PLANTING AND IRRIGATION SUBSTITUTIONS AT 623-932-3004.)
E. ALL PLANT MATERIAL LOCATED IN THE PUBLIC RIGHTS-OF-WAY OR CITY OF GOODYEAR MAINTAINED AREAS SHALL BE IN COMPLIANCE WITH THE DEPARTMENT OF WATER RESOURCES LOW WATER USE PLANT LIST FOR THE PHOENIX ACTIVE MANAGEMENT AREA.
F. ALL PLANT MATERIAL AND SPECIFICATIONS SHALL CONFORM TO THE ARIZONA NURSERYMAN ASSOCIATION CURRENT STANDARDS.
G. THE CONTRACTOR IS TO ENSURE A ONE-FOOT CLEARANCE BETWEEN THE SIDEWALK AND MATURE TREE CANOPY.
H. PLANT LEGEND PROVIDED FOR CONTRACTOR'S CONVENIENCE. CONSTRUCTION PLANS TAKE PRECEDENCE.
I. A 10-FOOT CLEARANCE SHALL BE MAINTAINED BETWEEN A TREE TRUNK AND A UTILITY LINE.
J. ALL EXISTING LANDSCAPE AND IRRIGATION SYSTEMS THAT ARE DESIGNATED TO REMAIN ON THE APPROVED LANDSCAPE PLANS SHALL NOT BE DAMAGED OR DESTROYED DURING CONSTRUCTION. ANY DAMAGE THAT DOES OCCUR DURING CONSTRUCTION SHALL BE REPLACED IN KIND BY THE CONTRACTOR.
K. SIDEWALK AND PAVING CONSTRUCTION THAT ARE PART OF THE LANDSCAPE IMPROVEMENTS SHALL BE IN COMPLIANCE WITH ALL ON-SITE PAVING AND SHALL MEET DESIGN AND CONSTRUCTION REQUIREMENTS OF THE AMERICANS WITH DISABILITIES ACT (ADA).
L. PRIOR TO ACCEPTANCE OF ANY BACKFLOW DEVICE, EACH DEVICE SHALL BE TESTED BY A STATE CERTIFIED TESTER AND THE RESULTS PROVIDED TO THE CITY.
M. UTILITY BOXES, METERS AND VAULTS SHALL BE LOCATED IN THE ROW AND WILL NOT BE PERMITTED IN ANY STREET MEDIAN.
N. "AS-BUILT" DRAWINGS, CERTIFIED BY THE DEVELOPER'S LANDSCAPE ARCHITECT, SHALL BE SUBMITTED AND APPROVED PRIOR TO ISSUANCE OF A BUILDING "CERTIFICATE OF OCCUPANCY."

Commercial or Residential Development

All plans for Commercial or Residential development shall have the following shown on the Cover Sheet.

O. LANDSCAPED AREAS THAT WILL BE MAINTAINED BY CITY PARKS DEPARTMENT SHALL BE CLEARLY IDENTIFIED ON THESE PLANS AND ARE SUBJECT TO THE FOLLOWING REQUIREMENTS.
1. THE DEVELOPER SHALL MAINTAIN AND WARRANTY ALL PLANTED AREAS INCLUDING IRRIGATION SYSTEMS FOR A PERIOD OF TWO YEARS BEGINNING IMMEDIATELY AFTER THE CITY ISSUES THE NOTIFICATION OF APPROVAL FOR THE PROJECT.
2. DURING THE MAINTENANCE AND WARRANTY PERIOD, THE DEVELOPER SHALL BE RESPONSIBLE FOR MAINTAINING ADEQUATE PROTECTION TO ALL AREAS. ANY DAMAGED PLANTINGS AND OR IRRIGATION SYSTEMS SHALL BE IMMEDIATELY REPAIRED OR REPLACED AT THE DEVELOPER'S EXPENSE.
3. MAINTENANCE SHALL INCLUDE CONTINUOUS OPERATIONS OF WATERING, WEEDING, REMOVAL OF DEAD PLANT MATERIAL, MOWING, ROLLING, FERTILIZING, SPRAYING, INSECT AND PEST CONTROL, RE-SEEDING, REPLACEMENT, AND ALL OTHER MEASURES NECESSARY TO ENSURE GOOD NORMAL GROWTH.
4. WHEN THE TURF HAS ESTABLISHED SUFFICIENT ROOT STRUCTURE AND AN APPROXIMATE HEIGHT OF 3 INCHES, MOWING SHALL BEGIN IMMEDIATELY AND REDUCE IN SAFE INCREMENTS TO A HEIGHT OF 2 INCHES AND SHALL BE MAINTAINED THEREAFTER AT THE HEIGHT OF 2 INCHES.
5. AT THE TERMINATION OF THE MAINTENANCE AND WARRANTY PERIOD, ALL TURF AREAS SHALL BE LIVE, HEALTHY, UNDAMAGED, AND FREE OF INFESTATIONS. ALL AREAS SHALL BE COMPLETELY VOID OF BARREN SPOTS LARGER THAN 3 INCHES BY 3 INCHES.
6. IF ALL PLANTINGS ARE NOT ACCEPTABLE AT THE END OF THE TWO YEAR PERIOD, THE MAINTENANCE AND WARRANTY PERIOD SHALL CONTINUE UNTIL ALL UNACCEPTABLE PLANTINGS ARE REPLACED OR REPAIRED AND THE LANDSCAPING MEETS CITY APPROVAL.
7. AREAS MAY INCLUDE RETENTION BASINS, PARKS, RIGHTS-OF-WAY, AND STREET CENTER MEDIAN LANDSCAPING.

GENERAL NOTES

1. INSTALL AN ISOLATION BALL VALVE TO ALL CONTROL VALVES.
2. 0 L..F. ESTIMATED FOOTAGE OF CONCRETE SIDEWALK, ALL SIDEWALK TO BE CONSTRUCTED FROM CIVIL PLANS.
3. ALL SIDEWALKS SHALL BE CONSTRUCTED PER MAG (CONSTRUCTION CALL OUT).
4. PROPERTY LANDSCAPE TO BE MAINTAINED BY OWNER INCLUDING RIGHT-OF-WAY.
5. MAINTAIN A MINIMUM OF 7' LANDSCAPE CLEARANCE FROM FIRE EQUIPMENT.
6. 0 .L.F. OF MAINLINE TRENCHING WITHIN THE RIGHT-OF-WAY OR LANDSCAPE TRACTS.
7. ANY TREE RELOCATION IN THE RIGHT-OF-WAY IS TO BE COORDINATED THROUGH THE CITY LANDSCAPE INSPECTOR.
8. LITCHFIELD PARK SERVICE CO. TO PROVIDE WATER FOR LANDSCAPE WATERING PURPOSES.
9. IRRIGATION EQUIPMENT NOT SHOWN IN THE LANDSCAPE AREAS. L.C. IS TO PLACE ALL EQUIPMENT IN THE LANDSCAPE PLANTING AREAS.
10. IRRIGATION SYSTEM IS DESIGNED FOR POTABLE WATER.
11. SEE THE IRRIGATION PLANS FOR WATER SOURCE / CONNECTION POINT.
12. PRIOR TO ACCEPTANCE OF REDUCED PRESSURE DEVISE IT SHALL BE TESTED BY A CERTIFIED TESTER.

MAINTENANCE NOTES

1. ALL PLANT MATERIAL SHALL BE PRUNED 4 TIMES PER YEAR (3 TIMES DURING ACTIVE GROWTH SEASON AND 1 TIME DURING DORMANCY).
2. ALL HEDGE MATERIAL MAY BE PRUNED WITH SHEARS: ALL OTHER PLANT MATERIAL SHALL BE HAND PRUNED TO MAINTAIN A NATURAL APPEARANCE WITH ALL CUTS BEING MADE WITHIN THE CROWN OF THE PLANT TO MINIMIZE VISUAL CUTS. ALL TREES, SHRUBS AND VINES HAVE CORRECTIVE PRUNING PERFORMED DURING THE DORMANT SEASON.
3. ALL PLANT MATERIAL SHALL BE CARED FROM UNDER AN IPM (INTEGRATED PEST MANAGEMENT) PROGRAM. ALL PESTICIDES SHALL BE MADE DURING SITE AND REGION SPECIFIC TIME FRAMES THAT WILL MAXIMIZE THE EFFECTS OF THE CHEMICAL TO CONTROL ANY PESTS OR PATHOGENS AND THAT WILL MAXIMIZE THE CONCEPT OF IPM.

LANDSCAPE AREA:

APPROX. SITE AREA: 238,373 SQ.FT.
LANDSCAPE AREA: 107,169 SQ.FT.
PERCENT LANDSCAPE: 45%

LANDSCAPE LEGEND

TREES

CERCIDIUM 'HYBRID'
DESERT MUSEUM PALO VERDE
24" BOX

PHOENIX DACTYLIFERA
DATE PALM (MATCHING)
20' T.F. DIAMOND CUT, STRAIGHT, NO AERIAL ROOTS SHOWING.

ACACIA SALICINA
WILLOW ACACIA
24" BOX

ACACIA ANEURA
MULGA (SRP/APS APPROVED)
24" BOX

QUERCUS VIRGINIANA
LIVE OAK
2" CALIP., 7'T, 4'W

LARGE SHRUBS

TECOMA 'ORANGE JUBILEE'
ORANGE JUBILEE
5 GALLON

CAESALPINIA MEXICANA
MEXICAN BIRD OF PARADISE
5 GALLON

MEDIUM SHRUBS

EREMOPHILA MACULATA
VALENTINE EMU BUSH
5 GALLON

LEUCOPHYLLUM FRUTESCENS
'GREEN CLOUD'
5 GALLON

ACCENTS

HESPERALOE PARVIFLORA
RED YUCCA
5 GALLON

HESPERALOE PARVIFLORA
YELLOW YUCCA
5 GALLON

AGAVE DESMETTIANA
SMOOTH AGAVE
5 GALLON

GROUND COVER

LANTANA MONTEVIDENSIS
'GOLD MOUND'
1 GALLON

LANTANA MONTEVIDENSIS
TRAILING PURPLE
1 GALLON

ASCLEPIAS SUBULATA
DESERT MILKWEED
5 GALLON

ACACIA REDOLENS
'DESERT CARPET' tm
5 GALLON

3/4" SCREENED ARIZONA BLONDE
DECOMPOSED GRANITE (MATCH ADJACENT)
2" DEPTH IN ALL LANDSCAPE AREAS

AS-BUILT NOTES

1. AS-BUILT PLANS SHALL BE SUBMITTED AS BLACK LINE DRAWINGS FOR REVIEW (24"X36" MAX. 4 MIL THICK), UPON APPROVAL A MYLAR COPY OF THE PLANS SHALL BE SUBMITTED FOR SIGNATURE.
2. AS-BUILT PLANS SHALL BE SIGNED AND SEALED BY A REGISTERED PROFESSIONAL LANDSCAPE ARCHITECT WITH THE "AS-BUILT CERTIFICATION" APPROVAL BLOCK.

"AS-BUILT CERTIFICATION"

I certify that the "AS-BUILT" information shown heron was obtained under my direct supervision and is correct and complete to the best of my knowledge and belief.

NAME _____
REGISTRATION NO._____ DATE _____
REVIEWED BY:_____
FIELD ENGINEERING

T.J. McQUEEN & ASSOCIATES, INC.
LANDSCAPE ARCHITECTURE
URBAN DESIGN
SITE PLANNING
10450 N. 74th Street , Suite 120
Scottsdale, Arizona 85258
P.(602)265-0320
EMAIL: timmcqueen@tjmla.net

LANDSCAPE ARCHITECT
REGISTERED
27166
TIMOTHY J.
McQUEEN
Date Signed
08.09.23
ARIZONA U.S.A.
EXPIRES 06/30/2024

T&M ASSOCIATES

T.J. McQUEEN & ASSOC., INC. LANDSCAPE ARCHITECTURE (T.J.MLA) EXPRESSLY RESERVES ITS COMMON LAW COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE PLANS. THESE PLANS ARE NOT TO BE CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER, NOR ARE THEY TO BE ASSIGNED TO ANY THIRD PARTY WITHOUT FIRST OBTAINING THE EXPRESSED WRITTEN PERMISSION & CONSENT FROM T.J.MLA.

esencia
1743 E. McNair Drive, Suite 200
Tempe, Arizona 85283
t. 480 - 755 - 0959

Project Manager: ES
Drawn By:
Checked By:
Project Number: 23014

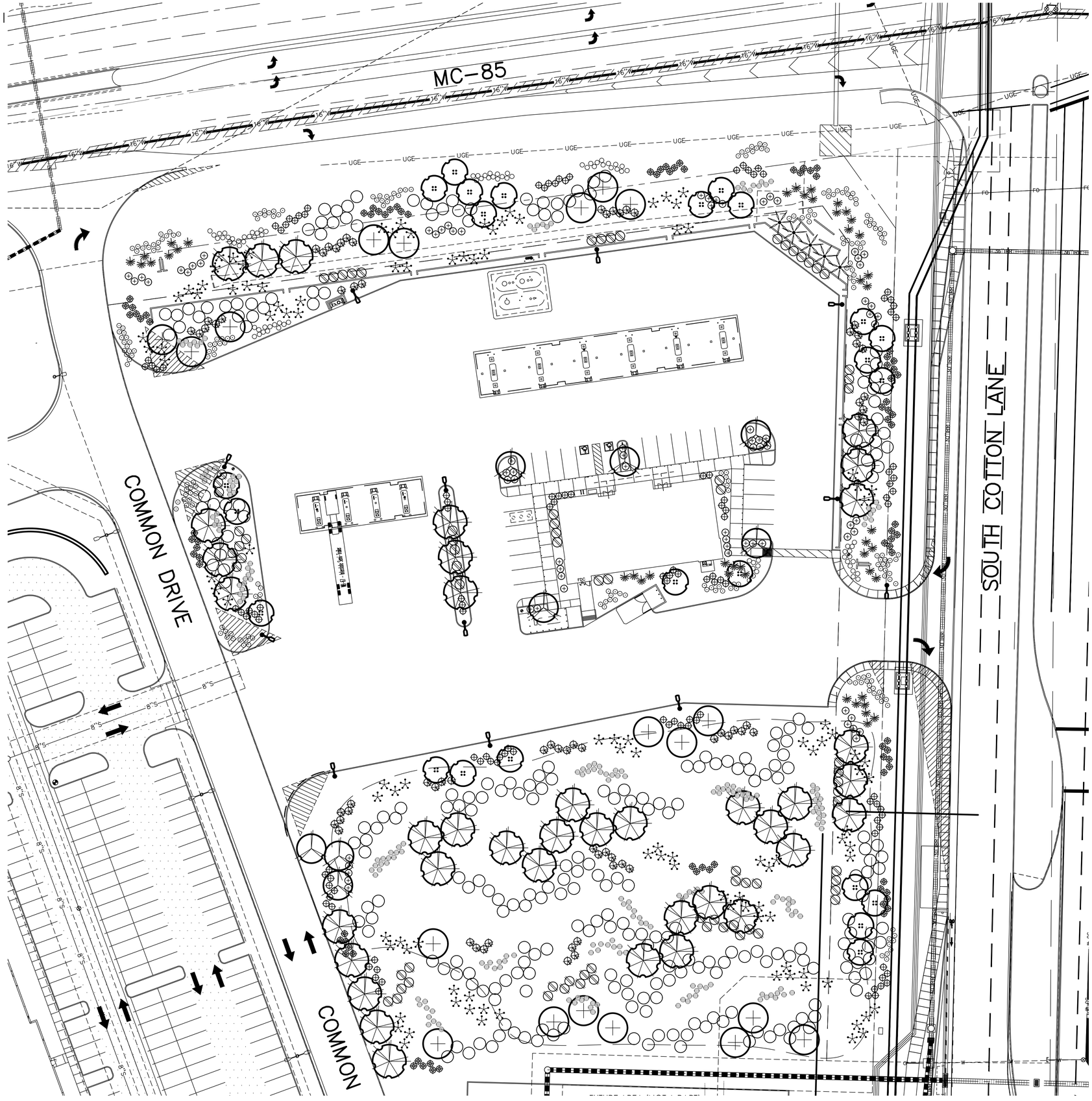
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LAKIN PARK CONVENIENCE STORE
CARIOCA CO.
S.W.C. MC 85 AND COTTON LANE
GOODYEAR, ARIZONA 85338

Revisions

Date	Issued for
4-17-2023	SUBMITTAL

La.01



LANDSCAPE LEGEND

TREES

CERCIDIUM 'HYBRID'
DESERT MUSEUM PALO VERDE
24" BOX

PHOENIX DACTYLIFERA
DATE PALM (MATCHING)
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DECOMPOSED GRANITE (MATCH ADJACENT)
2" DEPTH IN ALL LANDSCAPE AREAS

esencia

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Drawn By	
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LAKIN PARK CONVENIENCE STORE

CARIOCA CO.

S.W.C. MC 85 AND COTTON LANE
GOODYEAR, ARIZONA 85338

Revisions	
Date	Issued for
4-17-2023	SUBMITTAL

La.02

T.J. McQUEEN & ASSOCIATES, INC.
LANDSCAPE ARCHITECTURE
URBAN DESIGN
SITE PLANNING
10450 N. 74th Street , Suite 120
Scottsdale, Arizona 85258
P.(602)265-0320
EMAIL: timmcqueen@tjmla.net

REGISTERED LANDSCAPE ARCHITECT 27166 TIMOTHY J. McQUEEN Date Signed 08.09.23 ARIZONA U.S.A. EXPIRES 06/30/2024

T.J. McQUEEN & ASSOC. INC. LANDSCAPE ARCHITECTURE (TJMLA) EXPRESSLY RESERVES ITS COMMON LAW COPYRIGHT & OTHER PROPERTY RIGHTS IN THESE PLANS AND ARE NOT TO BE REPRODUCED, CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER, NOR ARE THEY TO BE ASSIGNED TO ANY THIRD PARTY WITHOUT FIRST OBTAINING THE EXPRESSED WRITTEN PERMISSION & CONSENT FROM TJMLA.

Lakin Park Convenience Store

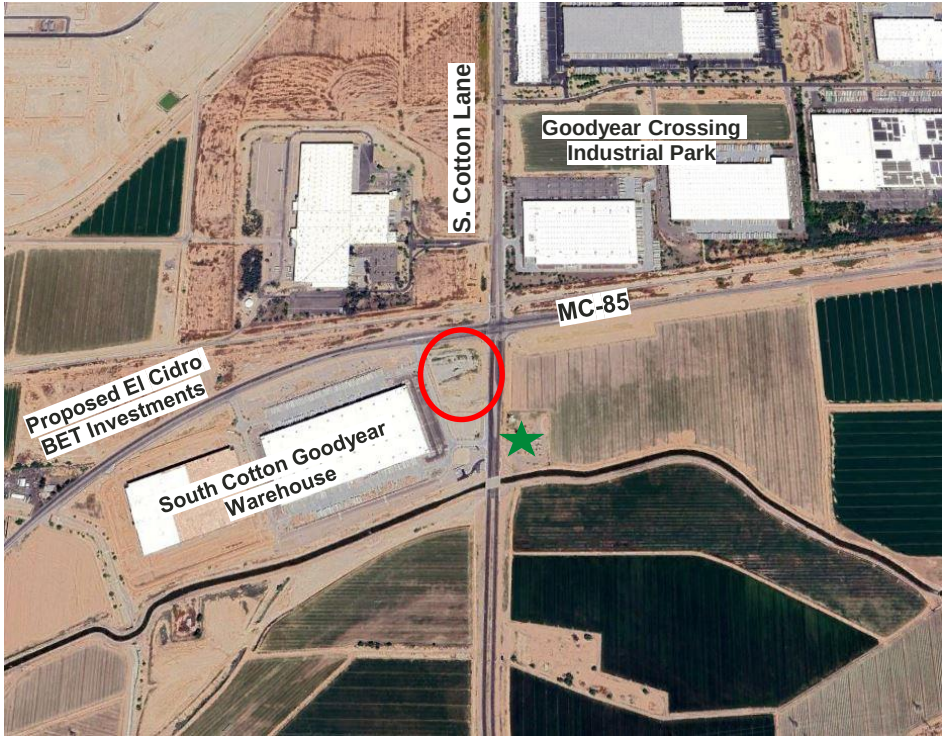
Use Permit



Location

SWC OF MC-85 AND COTTON LANE

- Lakin Park Planned Area Development (PAD)
- Only 1 residential use within 500'. ★
  - Small farmhouse east of the site in the farm maintenance yard.



Location

SWC OF MC-85 AND COTTON LANE

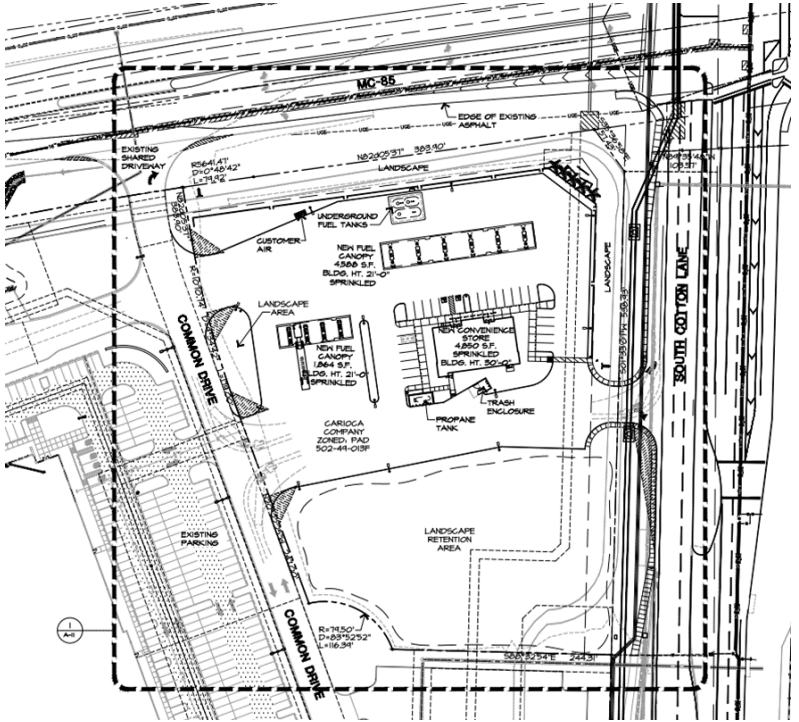
- Lakin Park PAD
- 5.22 Acre Site

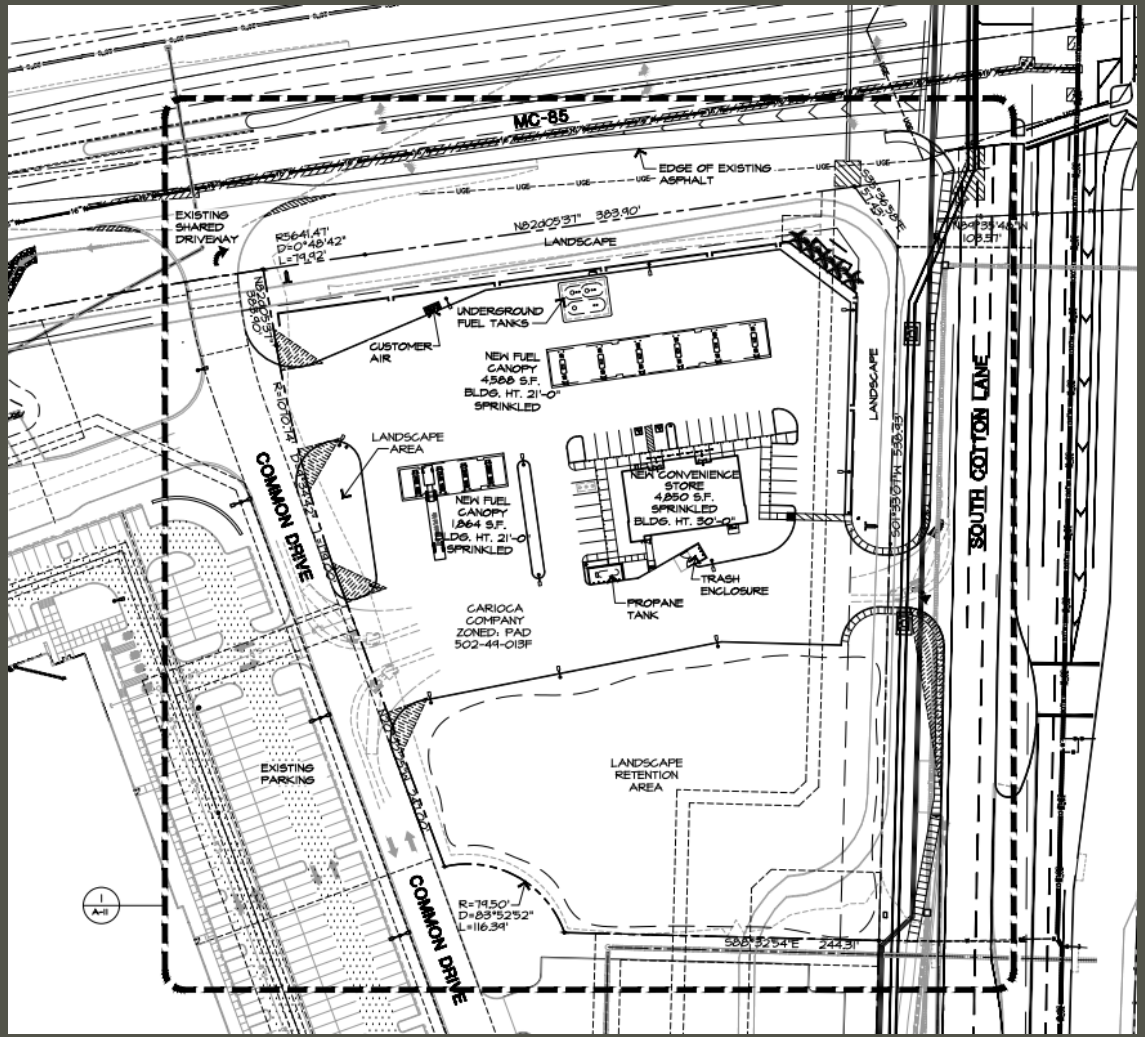


Site

SWC OF MC-85 AND COTTON LANE

- 4,850 square foot convenience store
- 4,600 square foot gas canopy
- 1,900 square foot diesel canopy
- Propane tank / sales
- Air filling station

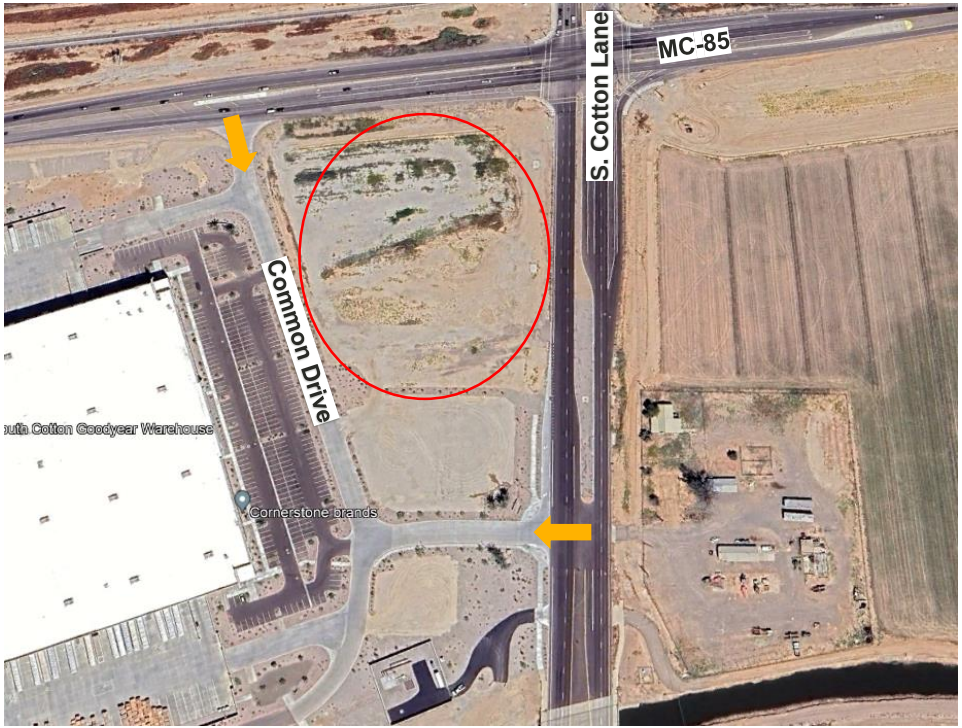



MC-85
EDGE OF EXISTING ASPHALT
EXISTING SHARED DRIVEWAY
R=641.47'
D=0°48'42"
L=74.92'
N82°05'31"E 383.90'
LANDSCAPE
UNDERGROUND FUEL TANKS
CUSTOMER AIR
NEW FUEL CANOPY 4,588 S.F. BLDG. HT. 21'-0" SPRINKLED
LANDSCAPE AREA
NEW FUEL CANOPY 1,864 S.F. BLDG. HT. 21'-0" SPRINKLED
NEW CONVENIENCE STORE 4,950 S.F. SPRINKLED BLDG. HT. 30'-0"
TRASH ENCLOSURE
PROPANE TANK
CARIOCA COMPANY ZONED: PAD 502-44-013F
COMMON DRIVE
SOUTH COTTON LANE
LANDSCAPE
EXISTING PARKING
LANDSCAPE RETENTION AREA
R=79.50'
D=83°52'52"
L=116.39'
S88°32'54"E 244.31'
A-11

Site Access

SWC OF MC-85 AND COTTON LANE

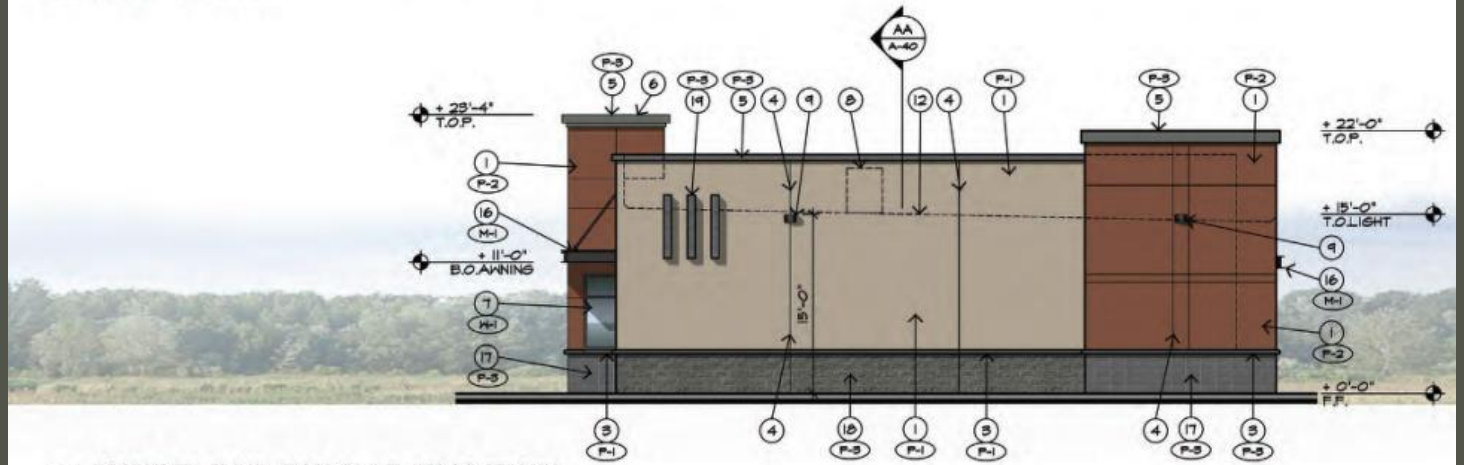
- ¾ access from Cotton Lane at Common Drive (No left northbound)
- Right in / Right out only at Common Drive and MC-85





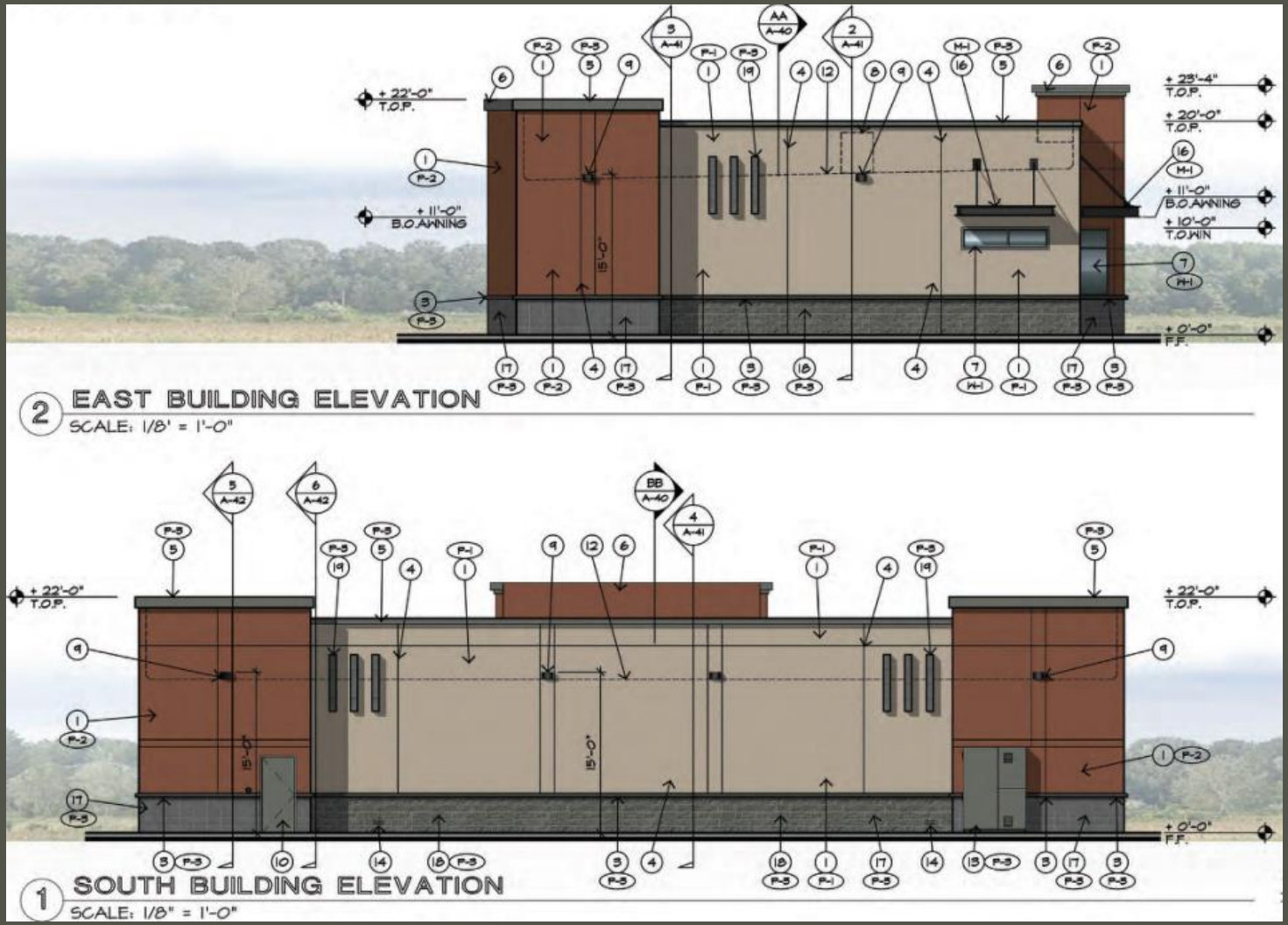
4 NORTH BUILDING ELEVATION

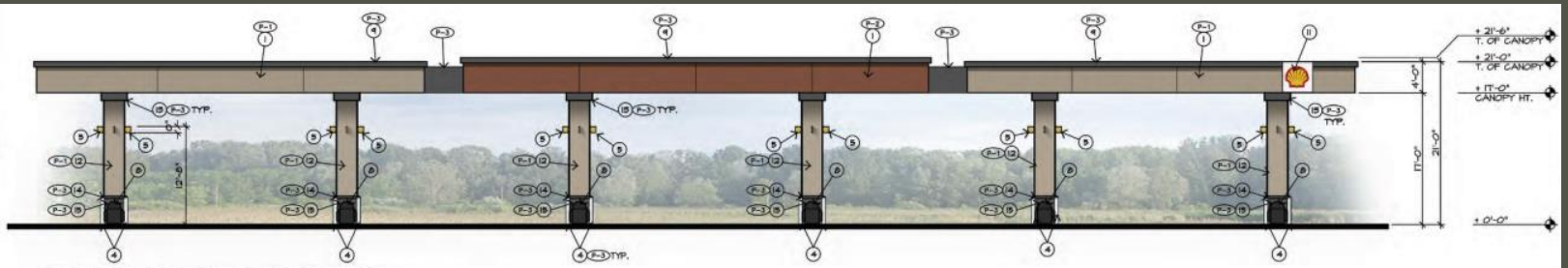
SCALE: 1/8" = 1'-0"



3 WEST BUILDING ELEVATION

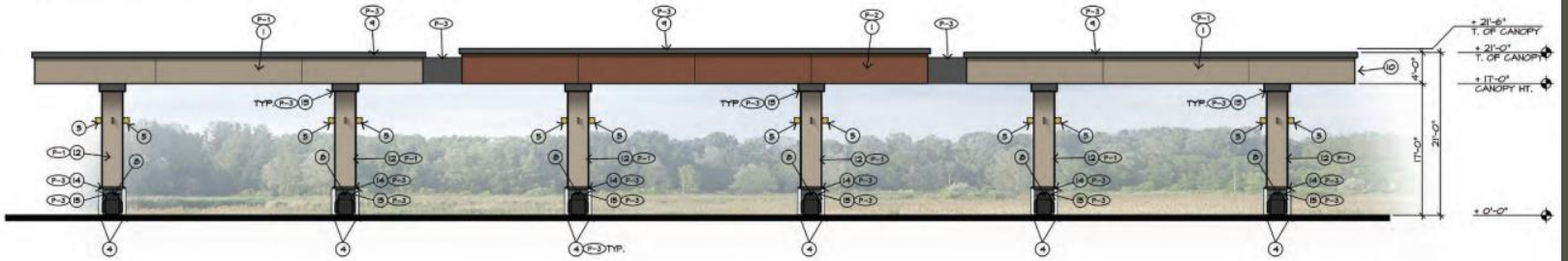
SCALE: 1/8' = 1'-0"


+ 22'-0" T.O.P.
+ 11'-0" B.O.AWNING
+ 23'-4" T.O.P.
+ 20'-0" T.O.P.
+ 11'-0" B.O.AWNING
+ 10'-0" T.O.WIN
+ 0'-0" F.F.
15'-0"
2 EAST BUILDING ELEVATION
SCALE: 1/8" = 1'-0"
+ 22'-0" T.O.P.
+ 22'-0" T.O.P.
+ 0'-0" F.F.
15'-0"
15'-0"
1 SOUTH BUILDING ELEVATION
SCALE: 1/8" = 1'-0"



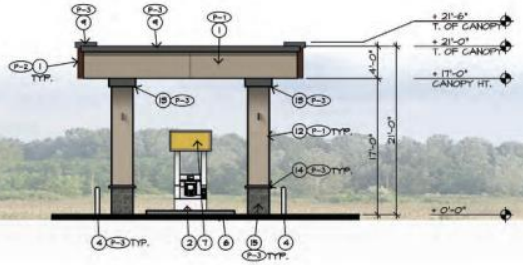
1 NORTH CANOPY ELEVATION

SCALE: 1/8" = 1'-0"



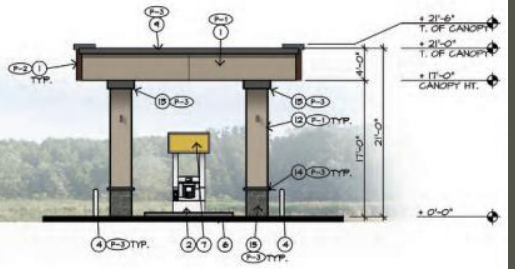
2 SOUTH CANOPY ELEVATION

SCALE: 1/8" = 1'-0"



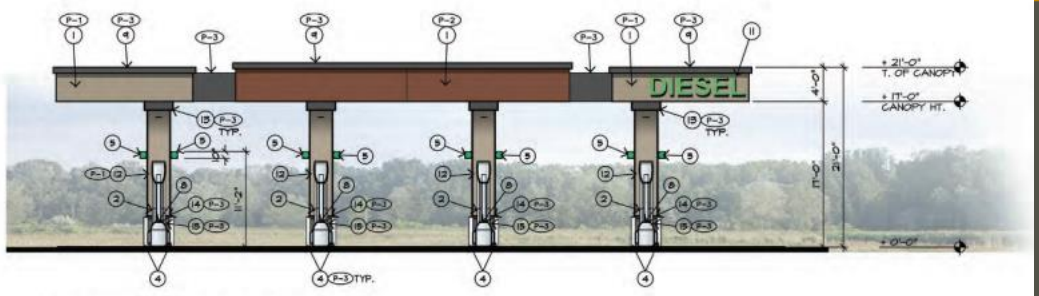
3 EAST CANOPY ELEVATION

SCALE: 1/8" = 1'-0"

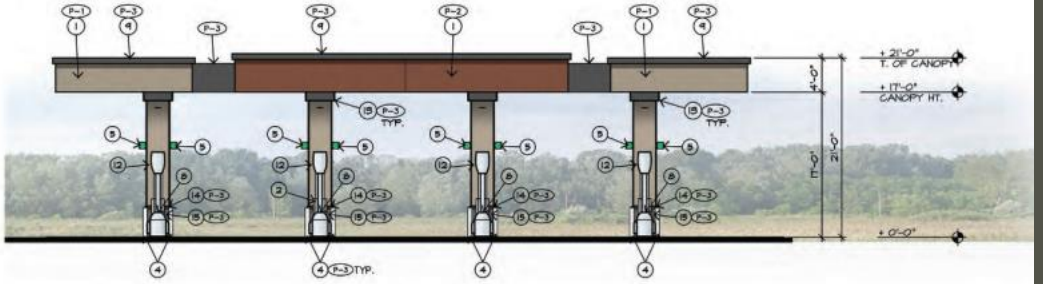


4 WEST CANOPY ELEVATION

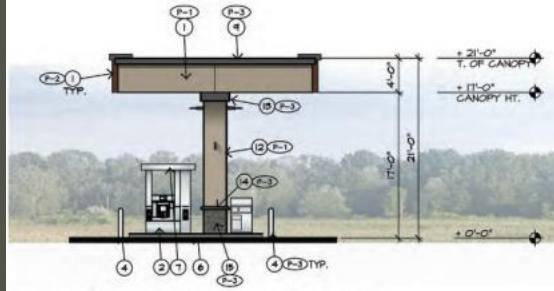
SCALE: 1/8" = 1'-0"



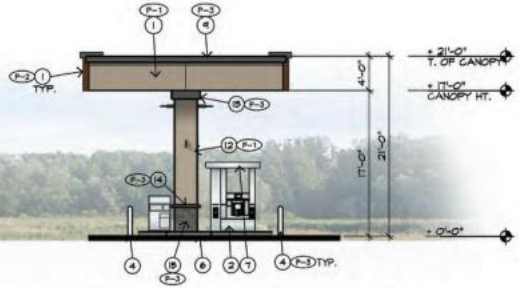
1 NORTH CANOPY ELEVATION
SCALE: 1/8" = 1'-0"



2 SOUTH CANOPY ELEVATION
SCALE: 1/8" = 1'-0"



3 EAST CANOPY ELEVATION
SCALE: 1/8" = 1'-0"



4 WEST CANOPY ELEVATION
SCALE: 1/8" = 1'-0"

Use Permit evaluation criteria

ZONING ORDINANCE SECTION 1-3-2

1. The Use Permit will not be materially detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare
2. The proposed use is reasonably compatible with uses permitted in the surrounding area

Convenience Use evaluation criteria

ZONING ORDINANCE SECTION 4-2-2

1. Adequacy of the parcel size and configuration to provide for proper access and internal circulation
2. Compatibility of proposed hours of operation with adjacent residential areas
3. Required traffic and access mitigation measures
4. Other concerns which may place the advisability of the proposed convenience use in question

Use Permit

PUBLIC PARTICIPATION

- Citizen Review and Public Hearing processes were followed
- Given location and surrounding uses, alternate notification process used. No public comment was received.

Planning Commission

SEPTEMBER 13, 2023

- Planning Commission meeting held on September 13, 2023.
- Staff gave presentation, and clarified that there was one residential use within 500 feet of the proposed use and comments on access to the site.
- Applicant gave a brief statement.
- There were no public comments during the meeting.
- Commission voted unanimously 5-0 to send a recommendation for approval to the Council.

Recommendation

APPROVAL SUBJECT TO PLANNING COMMISSION STIPULATIONS

- Application complies with city requirements




CITY OF
Goodyear

ITEM #: 14.
DATE: 09/25/2023
AI #:1617

CITY COUNCIL ACTION REPORT

SUBJECT: REZONE APPROXIMATELY 47.35 ACRES FROM PRELIMINARY PLANNED AREA DEVELOPMENT (PAD) TO I-1 (LIGHT INDUSTRIAL) WITH PAD OVERLAY

STAFF PRESENTER(S): Christian M. Williams, AICP, Principal Planner

SUMMARY

Request a rezone of approximately 47.35 acres generally located southeast of Sarival Avenue and MC-85 from Preliminary Planned Area Development (PAD) to I-1 (Light Industrial) with PAD Overlay.

STRATEGIC PLAN ALIGNMENT



RECOMMENDATION

1. ADOPT RESOLUTION NO. 2023-2329, DECLARING AS PUBLIC RECORDS THOSE CERTAIN DOCUMENTS FILED WITH THE CITY CLERK AND INCORPORATED BY REFERENCE IN ORDINANCE NO. 2023-1577 FILED WITH THE CITY CLERK RELATED TO THE REZONING CASE FOR – SEC SARIVAL AND MC-85.

2. ADOPT ORDINANCE NO. 2023-1577, CONDITIONALLY REZONING APPROXIMATELY 47.35 ACRES OF PROPERTY LOCATED AT THE SOUTHEAST CORNER OF SARIVAL AVENUE AND MARICOPA COUNTY HIGHWAY 85 TO BE KNOWN AS SEC SARIVAL AND MC-85; 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. (Christian M. Williams, AICP, Principal Planner).

FISCAL IMPACT

Although a fiscal impact analysis has not been conducted on this specific project, all new development will have an ongoing fiscal impact on the city. The development is responsible for construction of all infrastructure necessary to serve the site and will generate one-time revenue for the city through payment of permits, construction sales tax and development impact fees. Longer term fiscal impacts include increased demands for municipal services, the costs of which may or may not be offset by increased property values/tax levies, city sales tax, state shared revenues and the increased demand for commercial and retail development. Any areas that will be maintained by the city are constructed by the developer and then conveyed to the city two years after construction.

BACKGROUND AND PREVIOUS ACTIONS

The approximately 47.35-acres generally located at the southeast corner of N. Sarival Avenue and MC 85 that is the subject of this rezoning request (the Property) was zoned Preliminary PAD for Riverside Park (the Property") by the adoption of Ordinance 05-976. The underlying land use designation for the Property under the Riverside Park Preliminary PAD is Business Park. The current proposal requests to rezone the Property Preliminary PAD to a PAD with an underlying land use designation of I-1 (Light Industrial) with a PAD Overlay. This would change the underlying land use from a business park use to an industrial use, allowing the development of a business park and/or other light industrial uses. The Goodyear 2025 General Plan Land Use Designation for this property is 'Industrial'.

STAFF ANALYSIS

Current Policy:

A rezoning request requires public review and vote by the Planning and Zoning Commission and the City Council. The proposed rezoning must be in conformance with the General Plan and should not adversely impact the surrounding area. As set forth below, the proposed zoning is both consistent with the General Plan and will not adversely impact the surrounding area.

Details of the Request:

The applicant is requesting a zoning change from the currently approved Preliminary (PAD) to I-1 (Light Industrial). Further, the Applicant requests a PAD Overlay for the SEC Sarival and MC-85 property for the sole purpose of increasing the allowable maximum building height to 70 feet. The additional height, from 50 feet to 70 feet, is intended to accommodate a wider range of users that the applicant indicates are routinely seeking building heights in excess of 50 feet. The increased height will be compatible with the existing, much taller, high capacity powerlines that pass by the property to the south and the future stack interchange of the future Arizona State Route 30 (Tres Rios Freeway) with the Arizona State Route 303 Loop (Loop 303 Freeway) extension.

The remaining portions of the property included within the Riverside Park Preliminary PAD are designated for residential use. The properties to the south and southwest of the Property are within the future right-of-way for Arizona State Route 30, as identified on the adopted Loop 303 from I-10 to Proposed State Route 30 Final Approved Design Concept Report, dated 2018. ADOT has begun to acquire property, south and west of the proposed rezoning for the future freeway; thus, the increased height will be compatible with the surrounding land uses. However, stipulation #1 was added to prohibit buildings exceeding 50-feet in height within 500-feet of property that is zoned for a residential use in case the plans for State Route 30 should change.

Considering the proposed Arizona State Route 30 (Tres Rios) Freeway alignment, the Property has the opportunity to develop with business park and/or other light industrial uses. This conclusion is also supported by the existing and/or approved industrial land uses to the north, east and far west of the Property, as well as the Property's proximity to Maricopa County Highway 85 and the Southern Pacific Union Pacific railway. This property is within the Phoenix-Goodyear Airport Day-Night Average Sound Level (DNL) boundary. However, the airport operations should not greatly impact the development of the Property as a business park and/or with other light industrial uses.

Additionally, considering the location of the site and the request for added height, enhanced design requirements will be stipulated with the development of this Property, to create an environment more akin to a business park, including:

- No cross-dock warehousing (i.e. warehouses with dock doors for loading and unloading of stored goods) and no cross-dock transfer facilities (i.e. facilities that provide for the transfer of goods from incoming vehicles to outbound vehicles with little or no storage) is permitted on the Property; and

- Except as provided herein, no more than four (4) roll-up doors and/or service and wash bay doors shall be permitted to face Arizona State Route 30 (Tres Rios Freeway) and no more than (4) roll-up doors and/or service and wash bay doors shall be permitted to face the Maricopa County Highway 85 (MC-85). The number of roll-up doors and/or service and wash bay doors permitted herein may be increased by no more than 100% if additional screening measures are to be implemented and the Zoning Administrator or his/her designee determines that the additional screening measures prevents or substantially limits the visibility of the roll-up doors and/or service and wash bay doors from being seen from the property south of the Property (the future Arizona State Route 30 (Tres Rios Freeway)) and from Maricopa County Highway 85 (MC-85); and
- Except for the roll-up doors and service wash bay doors described above, roll-up doors and/or service and wash bay doors shall be oriented to face east and west and be oriented in a manner so the roll-up door and/or service and wash bay doors of the industrial buildings are not visible from N. Sarival Avenue; and
- The westernmost industrial buildings shall have a direct pedestrian connection to Sarival Avenue; and
- A thirty-foot (30') landscape buffer is to be constructed along the southern boundary of the Property. The buffer shall include earthen berms with a maximum height of six feet (6') and a maximum slope of 3:1. A minimum of one 24-inch nondeciduous box tree and one 15-gallon nondeciduous box tree shall be planted for every 30-feet of highway-adjacent lot line; and
- A minimum of one (1) outdoor shaded outdoor employee break area shall be provided for each building that exceeds 50,000 square feet; and
- Building color schemes, wall materials and colors and architectural elements shall be cohesive between the development on the entirety of the Property; and
- Buildings should include bold colors and not simply be a grey base color with shades of gray, black blue but rather a neutral desert base color with additional bolder colors to add vibrancy.

Evaluation Criteria:

Per the city of Goodyear Zoning Ordinance, the city's review and recommendation on a zoning amendment is to be guided by the following criteria:

1. Consistency with the General Plan.

The proposed rezoning is consistent with the City of Goodyear's General Plan

and meets many of the City's the goals, objectives, and policies.

The General Plan designates the Land Use Category for this property is 'Industrial'. Due to this fact, a rezone of this property to light industrial uses is supported by the General Plan.

2. Suitability of the subject property's physical and natural features for the uses permitted under the proposed zoning district.

The property is located between the Maricopa County Highway 85, the proposed route of the Arizona State Route 30 (Tres Rios) freeway and approximately two miles east of the future freeway stack interchange for the Arizona State Route 303 Loop (Stump/Estrella) freeway and Arizona State Route 30 (Tres Rios). The property is also near the Southern Pacific Railroad line. Due to these factors it seems appropriate for the property to serve an industrial development.

3. Compatibility of all potential uses allowed in the proposed zoning district with surrounding uses and zoning.

Current and future uses and development of the properties surrounding the subject property include:

North – Maricopa County Highway 85, land zoned AU (Agricultural Urban), Barkley Seed, BioFlora and I-2 (General Industrial);
South – Vacant land zoned Riverside Park Preliminary Planned Area Development (PAD);
East – Agricultural Urban land for County drainage and city of Goodyear land zoned Public Facilities District (PFD);
West – Vacant land Riverside Park Preliminary Planned Area Development (PAD);

The proposed I-1 (Light Industrial) Zoning District is consistent with the existing and planned uses adjacent to the Site and otherwise established in the general vicinity. Additionally, the Site is an ideal location for the proposed business park and industrial uses because of its limited potential traffic impact, consistency in aesthetics in relation to the existing and planned uses of neighboring properties, and the existing and planned infrastructure in the immediate trade area.

4. Proposed zoning district's consistency with other land uses within the immediate area and whether uses allowed under the proposed zoning district would be better suited to the subject property than the uses allowed under the current zoning.

Luke Air Force Base:

The Property does not fall within the Luke Air Force Base Accident Potential Zone or the DNL. However, the Property is located within the vicinity of a military airport. Given the location of the Property and the proposed zoning, base operations will not be adversely impacted by this development.

Phoenix-Goodyear Airport:

A portion of the Property falls within the Phoenix-Goodyear Airport 60 DNL. Given the uses permitted in the light industrial zoning district, the airport's operations should not adversely impact the Property.

5. Demand for the types of uses permitted in the proposed zoning district in relation to the amount of land currently zoned and available to accommodate the demand.

Per the General Plan Land Use designation of 'Industrial' and due to the proximity of this development to major transportation facilities, this Property is an appropriate place for this type of business park and light industrial development. The Property is adjacent to a railroad track, existing high capacity powerlines, a county highway, numerous irrigation canals, a future state highway and a future freeway junction. From a regional context, nearly all the property within the city along the Maricopa County Highway 85 and Southern Pacific Union Pacific rail lines, that are not being farmed, are zoned for industrial uses.

6. Demands for public services that will be generated by the uses permitted in the proposed zoning district.

School Districts:

The rezoning of the Property from preliminary business park to light industrial will have no impacts on the adjacent school districts from a student enrollment standpoint while adding to the assessed valuation of district lands.

Fire Response:

Emergency response times and distances are provided below:

Nearest Goodyear Fire Station	Shortest path		2nd Nearest Goodyear Fire Station	Shortest path	
	Mins	Miles		Mins	Miles
Fire Station #184	4.91	2.45	Fire Station #182	10.8	5.4

Police Response:

The proposed development is located within an existing police patrol beat and the current level of service within the beat can accommodate the development of the Property.

Streets/Transportation:

The Engineering Department has created stipulations to address traffic issues caused by the development of this property. Those stipulations address traffic signals, roadway construction and access to needed and adjacent streets such as Sarival Avenue and MC85.

Water/Wastewater:

The Property will be served by city of Goodyear water and wastewater utilities.

7. Potential adverse fiscal impacts that will result from providing services to areas not in proximity to where existing public services are provided.

The Property is within proximity to existing public services. The Property owner and/or developer will be responsible for the costs of making the necessary connections to these existing services.

8. General public concerns.

Public Participation and Planning and Zoning Commission Meeting:
A formal citizen review meeting was not held; an alternative notice providing information on the rezone was mailed to 20 owners of property within 500 feet of the Property and other stakeholders on August 3, 2023.

A public notice that this rezoning request would be considered and reviewed at a public hearing to be held before the Planning and Zoning Commission on September 13, 2023 appeared in the Arizona Republic Southwest Valley Edition August 25, 2023; postcards were mailed to adjoining owners on August 16, 2023; and a sign was posted on the site on August 24, 2023.

The Planning and Zoning Commission considered this item at their regular meeting of September 13, 2023. Upon conclusion of the staff presentation, Commissioners unanimously voted (5-0) to forward a recommendation of approval to the City Council.

9. Whether the amendment promotes orderly growth and development.
The Property is within a quarter mile of existing development and located within proximity of making connections to City services and infrastructure.

10. Any other factors related to the impact of the amendment on the general health, safety and welfare of the citizens of the City and the general public.
The proposed rezoning is consistent with the goals and objectives of the General Plan, which guides thoughtful and orderly growth and development in the City. A rezoning of the Site will further economic development in the City, generating employment and revenue for the City.

Attachments

Resolutions and Exhibits
Ordinance
Aerial Exhibit
Narrative
Presentation
Applicant Presentation

RESOLUTION NO. 2023-2329

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, DECLARING AS PUBLIC RECORDS THOSE CERTAIN DOCUMENTS FILED WITH THE CITY CLERK AND INCORPORATED BY REFERENCE IN ORDINANCE NO. 2023-1577 FILED WITH THE CITY CLERK RELATED TO THE REZONING CASE FOR – SEC SARIVAL AND MC-85.

Be it resolved by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, as follows:

SECTION 1. DECLARATION OF PUBLIC RECORDS

That certain document titled "Official Supplementary Zoning Map No. 22-05," a copy of which is attached hereto as Exhibit A, is hereby declared a public record.

That certain document titled "Legal Description," a copy of which is attached hereto as Exhibit B, is hereby declared a public record.

SECTION 2. PURPOSE

The aforementioned documents are declared public records in connection with the adoption of Ordinance 2023-1577.

SECTION 3. COPIES FILED WITH THE CITY CLERK

Either three paper copies or one paper copy and one electronic copy maintained in compliance with section A.R.S 44-7041 of each of the aforementioned documents being declared public records herein are ordered to remain on file with the City Clerk and to be available for public use and inspection during regular business hours.

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:

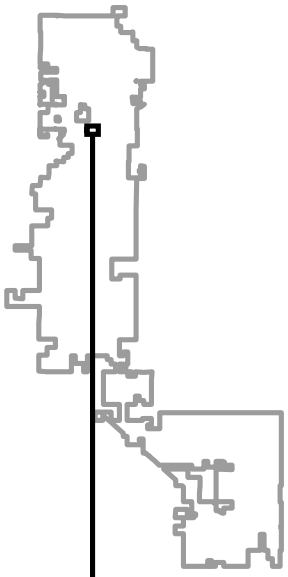
_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

OFFICIAL SUPPLEMENTARY ZONING MAP NO. 22-05

AMENDING ARTICLE 1, SECTION 1-1-4 OF THE ZONING ORDINANCE OF THE CITY OF GOODYEAR. AMENDED BY ORDINANCE NO._____, PASSED BY THE CITY COUNCIL OF THE CITY OF GOODYEAR, ARIZONA, THIS _____ DAY OF _____, 2021.

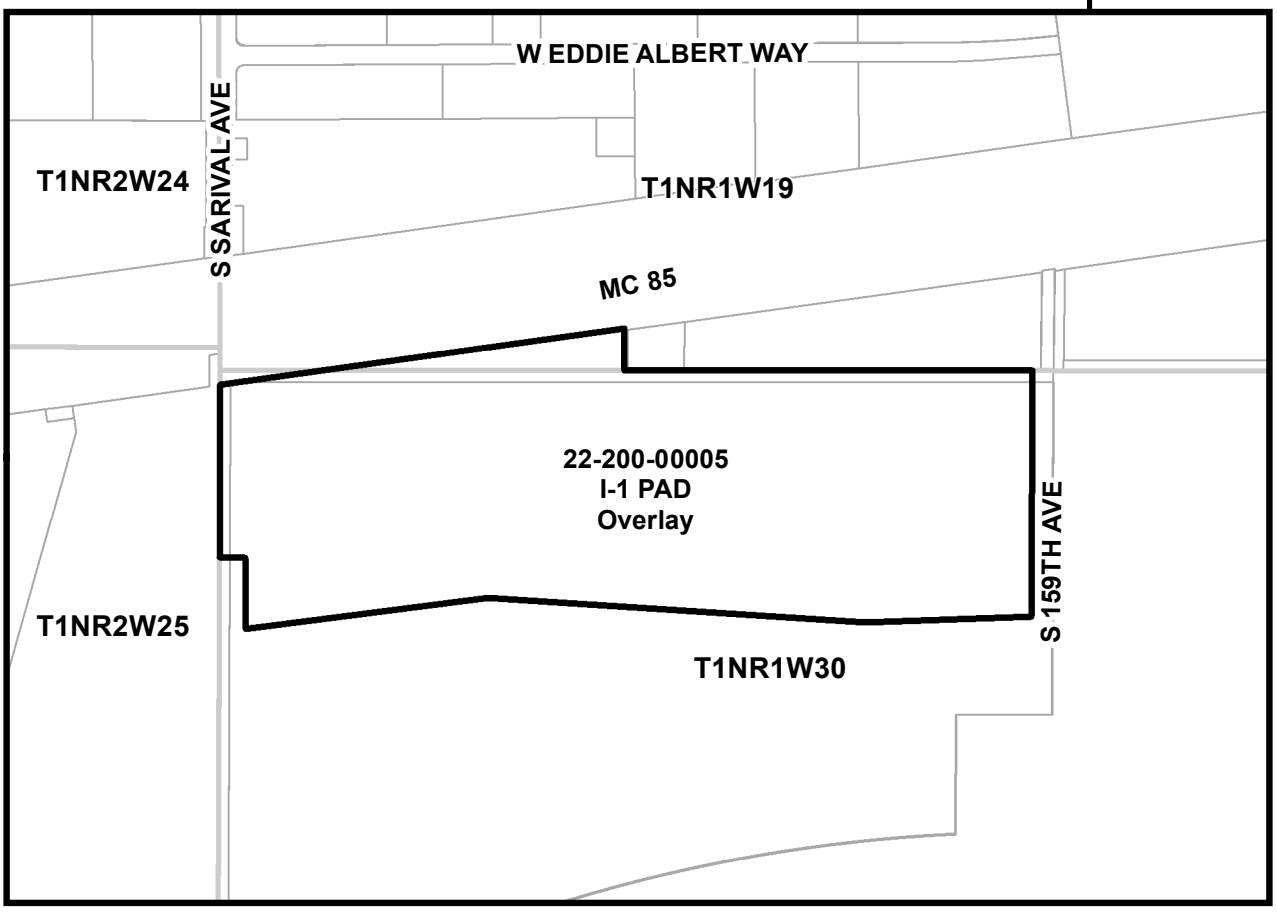


_____
MAYOR

_____
CITY CLERK

SUBJECT PROPERTY:

A portion of the Southwest Quarter of Section 19 and a portion of the Northwest Quarter of Section 30, Township 1 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.



SOURCE: CITY OF GOODYEAR G.I.S.

CITY OF GOODYEAR, AZ - REZONE CASE

EXHIBIT			DATE:
A	REZONE FROM PAD TO I-1 with PAD Overlay	22-200-00005	Sept. 2023

LEGAL DESCRIPTION

THOSE PORTIONS OF GLO LOT 4, BEING A PART OF THE SOUTHWEST QUARTER OF SECTION 19 AND THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 1 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS CAP IN A HANDHOLE MARKING THE NORTHWEST CORNER OF SAID SECTION 30, FROM WHICH AN ALUMINUM CAP FLUSH MARKING THE WEST QUARTER CORNER OF SAID SECTION 30 BEARS SOUTH 00°14'06" WEST, A DISTANCE OF 2635.52 FEET;

THENCE SOUTH 01°14'06" WEST, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 45.53 FEET TO A FOUND ALUMINUM CAP STAMPED "LS 42137". SAID POINT BEING THE POINT OF BEGINNING;

THENCE NORTH 82°03'29" EAST, A DISTANCE OF 1308.02 FEET, TO A POINT ON THE THE EAST LINE OF GLO LOT 4;

THENCE SOUTH 00°17'30" WEST, ALONG THE EAST LINE OF GLO LOT 4, A DISTANCE OF 135.55 FEET TO A FOUND IRON BAR MARKING THE SOUTHEAST CORNER OF GLO LOT 4,

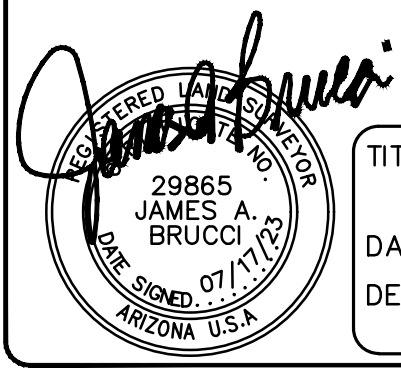
THENCE SOUTH 89°59'04" EAST, ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 1307.70 FEET TO A FOUND 1/2" REBAR MARKING THE COMMON QUARTER OF SAID SECTION 30 AND SECTION 19;

THENCE SOUTH 00°12'52" WEST, ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 787.10 FEET TO A FOUND IRON BAR WITH CAP STAMPED "21081 T. ROPE";

THENCE THE FOLLOWING 5 COURSES ALONG THE NEW RIGHT OF WAY LINE NO. 1 DESCRIPTION PER WARRANTY DEED DOCUMENT NO. 2021–0421780. M.C.R.:

THENCE SOUTH 88°01'19" WEST, A DISTANCE OF 532.86 FEET TO A FOUND ALUMINUM CAP STAMPED "LS 42137 KLEIN";

THENCE NORTH 86°19'20" WEST, A DISTANCE OF 1212.02 FEET TO A FOUND ALUMINUM CAP STAMPED "LS 42137 KLEIN";



TITLE:	XB02
DATE:	07/17/23
DESC:	ZONING LEGAL

HUNTER
ENGINEERING | CIVIL AND SURVEY
10450 N. 74TH ST., SUITE 200
SCOTTSDALE, AZ 85258
T 480 991 3985
F 480 991 3986

DWG.NO.XB02
PROJ.NO.DIVI001

LEGAL DESCRIPTION

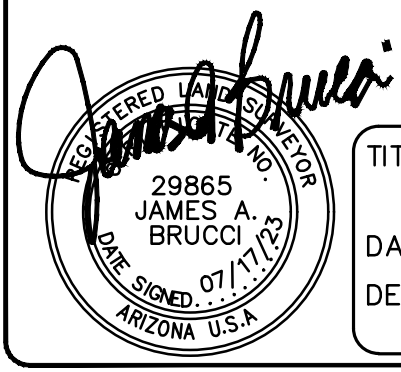
THENCE SOUTH 82°43'51" WEST, A DISTANCE OF 782.56 FEET TO A FOUND ALUMINUM CAP;

THENCE NORTH 00°35'10" WEST, A DISTANCE OF 227.07 FEET TO A FOUND ALUMINUM CAP;

THENCE NORTH 89°47'22" WEST, A DISTANCE OF 81.16 TO A FOUND IRON BAR MARKING A POINT ON THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 30 AND THE TERMINUS OF SAID LINE 1 DESCRIPTION;

THENCE NORTH 00°14'06" EAST, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 554.59 FEET TO THE POINT OF BEGINNING.

SAID DESCRIPTION CONTAINING 47.396 ACRES±.

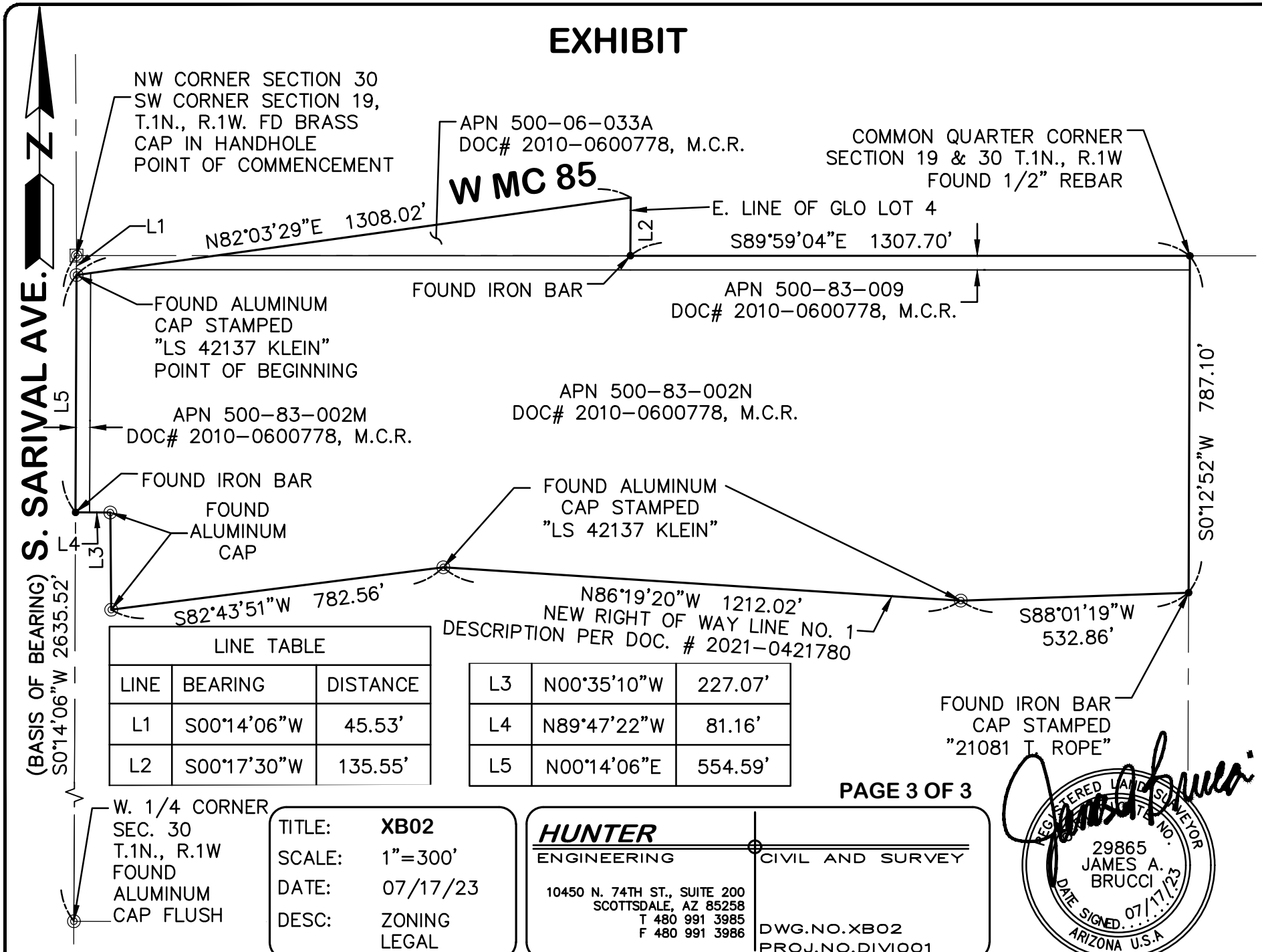


TITLE:	XB02
DATE:	07/17/23
DESC:	ZONING LEGAL

HUNTER
ENGINEERING
CIVIL AND SURVEY
10450 N. 74TH ST., SUITE 200
SCOTTSDALE, AZ 85258
T 480 991 3985
F 480 991 3986

DWG.NO.XB02
PROJ.NO.DIVI001

EXHIBIT



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S00°14'06"W	45.53'
L2	S00°17'30"W	135.55'

L3	N00°35'10"W	227.07'
L4	N89°47'22"W	81.16'
L5	N00°14'06"E	554.59'

TITLE:	XB02
SCALE:	1"=300'
DATE:	07/17/23
DESC:	ZONING LEGAL

HUNTER
ENGINEERING | CIVIL AND SURVEY
10450 N. 74TH ST., SUITE 200
SCOTTSDALE, AZ 85258
T 480 991 3985
F 480 991 3986

DWG.NO.XB02
PROJ.NO.DIV1001

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
29865
JAMES A.
BRUCCI
DATE SIGNED 07/17/23
ARIZONA U.S.A

ORDINANCE NO. 2023-1577

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 47.35 ACRES OF PROPERTY LOCATED AT THE SOUTHEAST CORNER OF SARIVAL AVENUE AND MARICOPA COUNTY HIGHWAY 85 TO BE KNOWN AS SEC SARIVAL AND MC-85; 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 47.35 acres and is located at the southeast corner of Sarival Avenue and Maricopa County Highway 85 and is known as SEC Sarival and MC-85 as more particularly described in that certain document titled “Legal Description,” which document was declared public record by Resolution No. 2023-2329, 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 located just south of a Southern Pacific Railroad corridor; and

WHEREAS, the Property is located adjacent to the Maricopa County Highway 85 (MC-85) which lies along the northern boundary of the property; and

WHEREAS, the property is located adjacent to the future Arizona State Route 30 (Tres Rios Freeway); and

WHEREAS, the property will be located within two and one-half miles from the future four to five stack freeway interchange of the Arizona State Route 303 Loop (Loop 303/Estrella Freeway) and the future Arizona State Route 30 (Tres Rios Freeway); and

WHEREAS, on December 12, 2005, the City Council conditionally approved the zoning for the Preliminary Planned Area Development (PAD) for Riverside Park, which had approximately 298.4 acres of Residential and Business Park, with the adoption of Ordinance No. 05-976; and,

WHEREAS, the approximately 47.35 acres known as SEC Sarival and MC-85 is within a portion of the aforementioned 298.4 acres zoned Preliminary Planned Area Development (PAD) for Riverside Park No. 05-976; and,

WHEREAS, the 47.35-acre site has an underlying land use of Business Park; and,

WHEREAS, the General Plan Land Use Plan shows the Property designated as ‘Industrial’; and,

WHEREAS, this request intends to replace the industrial uses on this property with I-1 (Light Industrial) subject to modified Planned Area Development (PAD) Overlay as established with this Ordinance; and,

WHEREAS, the rezoning will permit the Property to be developed with Light Industrial uses and will adhere to the principal permitted uses, permitted accessory uses, use permit uses, special uses and development regulations as established in the city of Goodyear Zoning Ordinance for the I-1, Light Industrial zoning district; and

WHEREAS, the applicant desires to have buildings exceed the current maximum height of 50 feet and fall within a new maximum height of 70 feet; and

WHEREAS, the city has previously allowed buildings to exceed the maximum height of 50 feet and fall within a new maximum height above 70 feet in large industrial areas; and

WHEREAS, to ensure that the increased height will not impact properties developed for residential uses, the increased height will not apply to any portion of the Property within 500 feet of any property zoned for any residential use; 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 light industrial development; and

WHEREAS, an alternative notification process was used for this rezoning. A formal citizen review meeting was not held, but notice providing information on the rezone was mailed to the owners of property within 500 feet of the subject property and other stakeholders on August 3, 2023; 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 13, 2023, appeared in the Arizona Republic Southwest Valley edition on August 25, 2023 and postcards were mailed to adjoining owners on August 16, 2023; and a sign was posted on the site on August 24, 2023; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on September 13, 2023, and at that meeting the Commission voted (5-0) 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 September 25, 2023 appeared in the Arizona Republic Southwest Valley Edition August 25, 2023; postcards were mailed to adjoining owners on August 16, 2023; and a sign was posted on the site on August 24, 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.

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. 2023-1577 applies to approximately 47.35 acres located at the southeast corner of Maricopa County Highway 85 and Sarival Avenue and legally described in that certain document titled “Legal Description,” which document was declared public record by Resolution No. 2023-2329, 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 AND PLANNED AREA DEVELOPMENT OVERLAY

That certain property legally described in that certain document titled "Legal Description", declared a Public Record by Resolution No. 2023-2329, and which is referred to and made a part hereof as if fully set forth in this Ordinance (the "Property"), is conditionally rezoned from Preliminary Planned Area Development (PAD) to the Planned Area Development (PAD) Zoning District with an underlying zoning district of the I-1 (Light Industrial) zoning district with the following PAD Overlay. The Property shall be developed in accordance with all requirements in the Goodyear Zonign Ordinance as it may be amended applicable to the I-1 (Light Industrial) zoning district, including, but not limited to, the permitted uses and development standards applicable to the I-1 (Light Industrial) zoning district, except as follows:

1. Except as provided herein, the maximum height for structures within the Property is increased from 50 feet to 70 feet; and

2. The maximum height of structures located within 500 feet of any property zoned for any residential use, including property designated as residential in a preliminary or final PAD, is 50 feet. No building permit shall be issued for a building that exceeds 50-feet in height that is within 500-feet of any property that is zoned for a residential use as set forth herein; and,

3. No cross-dock warehousing (i.e. warehouses with dock doors for loading and unloading of stored goods) and no cross-dock transfer facilities (i.e. facilities that provide for the transfer of goods from incoming vehicles to outbound vehicles with little or no storage) is permitted on the Property; and,

4. Except as provided herein, no more than eight (8) roll-up doors and/or service and wash bay doors shall be permitted to face the southern boundary of the Property, and no more than (4) roll-up doors and/or service and wash bay doors shall be permitted to face Maricopa County Highway 85 (MC-85) for the portion of the Property located west of the 161st Avenue Alignment. The number of roll-up doors and/or service and wash bay doors permitted herein may be increased by no more than 100% if additional screening measures are to be implemented and the Zoning Administrator or his/her designee determines that the additional screening measures prevents or substantially limits the visibility of the roll-up doors and/or service and wash bay doors from being seen from the property south of the Property (the future Arizona State Route 30 (Tres Rios Freeway)) and from Maricopa County Highway 85 (MC-85); and,

5. Except as provided above, roll-up doors and/or service and wash bay doors on the portion of the Property located west of the 161st Avenue Alignment shall be oriented to face east and

west and shall be oriented in a manner so that roll-up doors and/or service and wash bay doors do not face S. Sarival Avenue. Notwithstanding the foregoing, buildings may be constructed with roll-up doors and/or service and wash bay doors that face S. Sarival Avenue provided another building within the Property blocks the roll-up doors and/or service and wash bay doors from being visible from S. Sarival Avenue; and,

6. The buildings within the portion of the Property west of the 161st alignment shall provide direct pedestrian connections to Sarival Avenue and all buildings within the Property shall have pedestrian connections to one another or access to a public sidewalk; and,

7. A thirty-foot (30') landscape buffer shall be constructed along the southern boundary of the Property. The buffer shall include earthen berms with a maximum height of six-feet (6') and a maximum slope of 3:1. A minimum, one 24-inch nondeciduous box tree and one 15-gallon nondeciduous tree shall be planted for every 30-feet of the adjacent lot line; and,

8. A minimum of one (1) outdoor shaded employee break area shall be provided for each building that exceeds 50,000 square feet; and,

9. Building color schemes, wall materials and colors and architectural elements shall be cohesive between the development on the entirety of the Property; and,

10. Buildings should include bold colors and not simply be a grey base color with shades of gray, black blue but rather a neutral desert base color with additional bolder colors to add vibrancy.

SECTION 4. CONDITIONS OF REZONING

The rezoning of the Property is subject to the following conditions of approval ("Stipulations"):

1. 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, grading and drainage, lighting, infrastructure, parking, access and circulation; and,

2. 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,

3. Owner shall construct, at Owner's sole cost and expense, all on-site and off-site infrastructure improvements determined by the City as being necessary to provide water service and wastewater service to the Property; and,

4. Except as otherwise provided in a Development Agreement approved by the Goodyear City Council, Owner shall, at Owner's sole cost, provide the city with a physically and legally available water supply sufficient to provide the water needed to serve the Property in excess of 1,000 gallons per acre per day that satisfies the Arizona Department of Water Resources' ("ADWR") standards for modifications of the City of Goodyear's Designation of Assured Water Supply to increase the Designation water portfolio by an amount equivalent to the amount of the additional water needed to serve the Property and that provides for sufficient renewable supplies to offset the additional water demand. Notwithstanding this requirement, no part of this stipulation shall be construed as a promise of availability of up to 1,000 gallons per acre per day of City water to serve the Property, which availability shall be determined by the City in the City's sole discretion and pursuant to the limitations of the City's latest Designation of Assured Water Supply order, committed demand changes, ordinances and policies in effect at the time Owner submits Owner's final plat or site plan for uses within the property; and,

5. The City's obligation to provide water and sewer service to the Property is limited to the flow volumes reflected in the water reports and sewer reports for the Property approved by the City Engineer or designee. If the flow volumes of water and/or sewer exceed the flow volumes reflected in the approved water reports and/or approved sewer reports the city shall be entitled to terminate service to the Property until Owner submits updated reports to the City that addresses: (i) the capacity of the existing infrastructure to deliver the additional wastewater flows to the 157th Avenue Water Reclamation Facility; (ii) the availability of uncommitted capacity at the city's 157th Avenue Water Reclamation Facility to accept and treat the additional wastewater flows: (iii) the availability of an uncommitted potable water supply; and (iv) the capacity of existing water delivery lines to deliver the additional water flows to the Property(the "Updated Report(s)"). The Updated Report(s) shall identify all additional infrastructure that needs to be constructed for the city to accept the increased flow volumes of wastewater at the 157th Avenue Water Reclamation Facility and to deliver the increased flow volumes of water to the Property. The city shall have no obligation to provide service to accommodate the flow volumes in the Updated Reports

unless there is: an uncommitted water supply sufficient to provide the additional water flows, uncommitted capacity at the 157th Avenue Water Reclamation Facility to accept the wastewater flows reflected in the Updated Report(s) and until Owner, at Owner's sole cost and expense, has completed the construction of the infrastructure identified in the Updated Report(s) and has conveyed all real estate interests (lien free and free of all encumbrances unless agreed to by the City Engineer or designee), required for the construction of such infrastructure; and,

6. 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; and

7. 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 Policy Manual ("EDS&PM") 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. The Traffic Impact Analysis shall identify all infrastructure required to accommodate the additional trips generated by the development of Property as rezoned, and the location of all access points from public rights-of-way to the Property, all of which shall comply with all applicable regulations including the requirements in the EDS&PM. Owner, at no cost to the City, shall construct, at Owner's sole cost all infrastructure identified in the approved Traffic Impact Analysis as being needed to support the development of the property. Owner shall dedicate at no cost to the City, the property required for the infrastructure identified in the approved Traffic Impact Analysis, which dedication shall be in fee, lien free, and unencumbered except as otherwise approved by the City Engineer. The Traffic Impact Analysis shall be approved by MCDOT, and the existing traffic counts shall be updated to the current year at the time of site plan approval and final plat approval; and,

8. Owner shall, at no cost to the city, design and construct full half-street improvements required for a Minor arterial as set forth in

the EDS&PM in effect when the improvements are constructed for the east-half of the section of S. Sarival Avenue along or adjacent to the frontage of the Property except for the construction of ½ the median and ½ median landscaping. These improvements include, by way of example, but not limitation, pavement, decel lanes, bus bays, striping, curb and gutter, sidewalks, street frontage landscape and landscape irrigation, street lighting, and signage (the "Sarival Road Improvements"). The Sarival Road Improvements shall be completed prior to the issuance of any Temporary Certificate of Completion, Certificate of Completion, Temporary Certificate of Occupancy, and/or Certificate of Occupancy for any structure within the Property; and,

9. Owner shall remit to the city an in-lieu payment for one-half the cost of a full median and one-half the cost of full-median landscaping for the median required by the EDS&PM to be installed within the section of S. Sarival Road along or adjacent to the frontage of the Property. The in-lieu payment for the median and landscaping shall be based on the actual cost of the improvements if previously completed by others or based on the estimated cost of the improvements as determined by the City Engineer or designee. The in-lieu payments referred to herein shall be made prior to or concurrent with recordation of the first final plat subdividing all or part of the Property or prior to the issuance of any permits for construction work within the Property, whichever is earlier; and,

10. Subject to Maricopa County agreeing to deannex the right-of-way needed for the MC85 Improvements, Owner shall, at no cost to the city, design and construct all improvements to MC-85 along or adjacent to the frontage of the Property required by Maricopa County (the "MC85 Improvements"). The MC85 Improvements shall be designed and constructed pursuant to Maricopa County's standards and shall be permitted by Maricopa County. The MC85 Improvements shall be completed prior to the issuance of any Temporary Certificate of Completion, Certificate of Completion, Temporary Certificate of Occupancy, and/or Certificate of Occupancy for any structure within the Property; and,

11. Owner shall, at no cost to the city, convey, in fee and free from all liens and encumbrances other than those approved by the City Engineer or his/her designee, the following right-of-way:

    a. A full 55-feet of right-of-way for the east half of S. Sarival Avenue along and adjacent to the northern boundary of the Property required for the construction of the McDowell Improvements; and

    b. All right-of-way required by Maricopa County Department of Transportation for the construction of the MC85 Improvement Improvements, If directed by the City Engineer or his

designee, the conveyance required herein shall be made to Maricopa County; and,

12. Owner is responsible for a proportionate share of the cost of a full traffic signal (all four legs), which may include, but is not limited to, access ramps, curbing, sidewalk, push buttons and streetlights) at the following intersections. The in-lieu payment, the payment shall be based on the actual cost of the traffic signal if it has been constructed or if the payment is required before the signal is constructed it shall be based on the estimated cost of the traffic signal as determined by the City Engineer or designee. Owner's traffic signal obligations are as follows:

    a. 25% at S. Sarival Road and MC 85 for the southeast corner; and,

13. In addition to constructing the infrastructure improvements specifically identified herein, 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,

14. 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, 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,

15. 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,

16. The references to specific obligations that are addressed in the City's Development Regulations, which include but is 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; and,

17. 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. Unless modified by a written phasing plan approved by the City Engineer or his/her designee or by a development agreement approved by the Goodyear City Council, the undergrounding of the utilities required herein shall be completed prior to the issuance of the first Certificate of Completion, Temporary Certificate of Occupancy or Certificate of Occupancy for any structure within 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, "Supplementary Zoning Map No. 22-05," declared a public record by Resolution 2023-2329, 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: _____

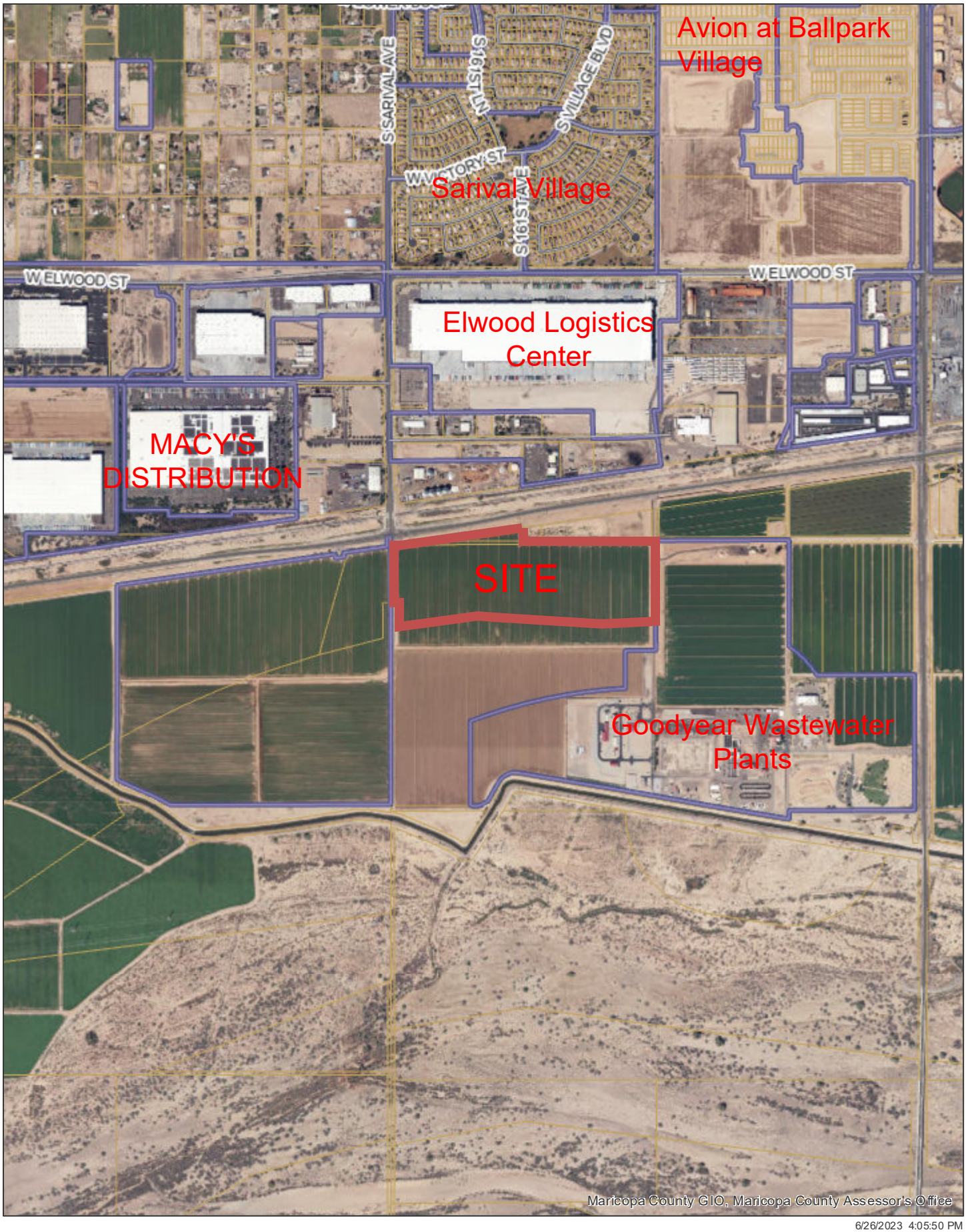
ATTEST:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

Aerial Exhibit
22-200-00005
SEC Sarival and MC-85 Industrial (OMP)



6/26/2023 4:05:50 PM

SEC Sarival and MC-85

Rezoning Narrative

Case Number: 22-20000005

Date: May 30, 2023

Prepared By:

Berry Riddell LLC

Wendy Riddell, Esq.

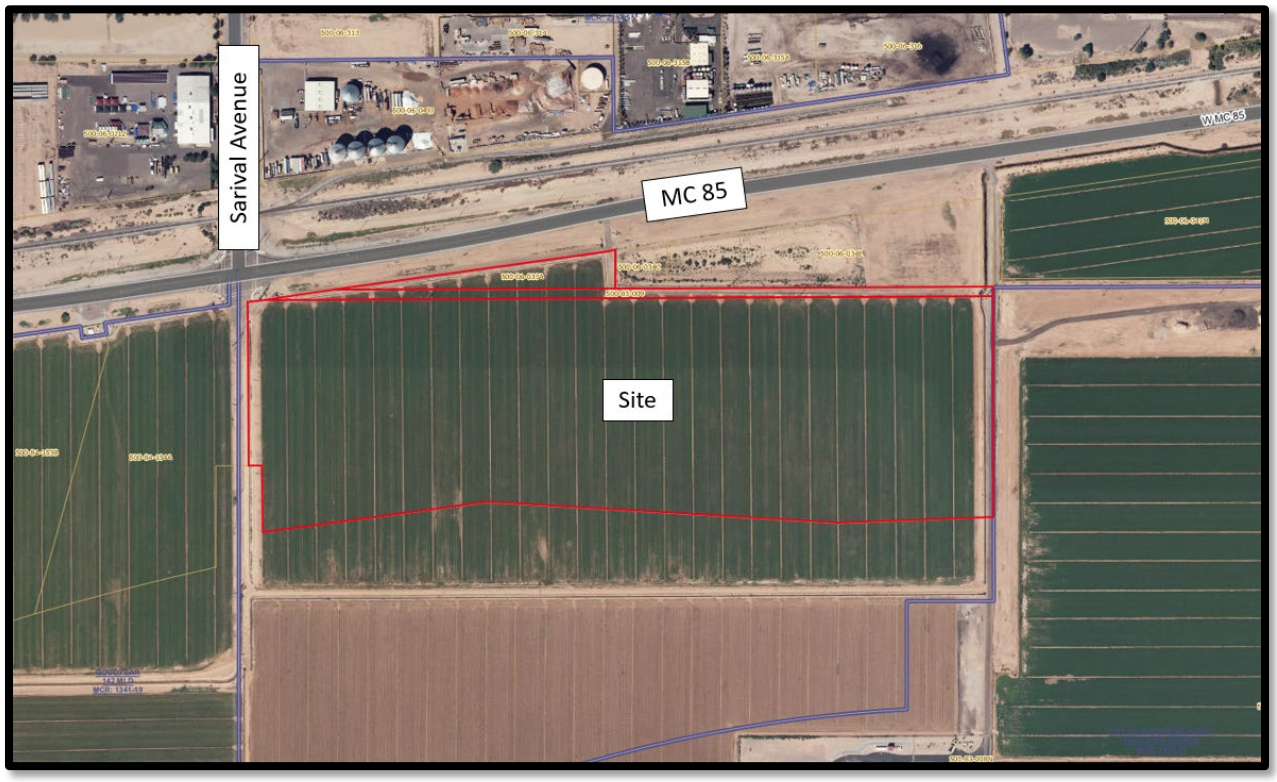
Elyse DiMartino, Planner

6750 E. Camelback Rd., #100

Scottsdale, AZ 85251

REQUEST

The purpose of this request is to seek a rezoning from the Riverside Park Planned Area Development ("PAD") to Light Industrial Park Planned Area Development Overlay ("I-1 PAD") on an approximate 47.35-acre property located at the southeast corner of South Sarival Avenue and Major Corridor 85 (the "Site"). As shown in red below, the Site is comprised of three contiguous parcels, identified as Maricopa County Assessor Parcel Numbers 500-83-002N, 500-83-009, and 500-06-033A. The removal of the Site from the Riverside Park PAD to the I-1 PAD District will allow the Site to be developed with industrial uses.



As mentioned, the Site is zoned as part of the Riverside Park PAD. The Site was designated for Business Park use under the Riverside Park PAD. The City of Goodyear (the "City") anticipated the Business Park would include light industrial manufacturing, warehousing, research uses, office, commercial office development and/or complexes for the overall Business Park. However, since the Riverside Park PAD was passed in 2005, the development patterns in the area have changed and the surrounding context has predominantly developed with or was planned for industrial uses. Consistent with the City's recommendation, the revised SR 30 alignment coupled with adjacent industrial land uses, the Site is an ideal location for industrial uses.

SITE AND SURROUNDING CONTEXT

The Site is presently vacant, agricultural land. At the northwest corner of the Site is vacant, desert land zoned Agricultural-Urban ("AU"), which is a not a part of this request. To the east of the Site is agricultural land zoned Light Industrial Park ("I-1") and Public Facilities District

("PFD"). To the south and east of the Site is agricultural land zoned Planned Area Development ("PAD"). Finally, the Site and the entirety of its surrounding context are designated as Industrial on the City of Goodyear 2025 General Plan (the "General Plan") land use map.

PROPOSAL

As previously stated, the purpose of this request is to remove the Site from the Riverside Park PAD and rezone the Site to I-1 PAD. The purpose of seeking a PAD overlay is to increase the allowable maximum building height from 50' to 70'. Pursuant to the City's Zoning Ordinance (the "Ordinance"), no building permit shall be issued for a building that exceeds 50-feet in height that is within 500-feet of property that is zoned for a residential use. Increasing the maximum building height form 50' to 70' is necessary to accommodate a wider range of industrial users and other mission critical environments that are routinely seeking building heights in excess of 50' Given the unique location of the Site and its proximity to the planned SR 30 to the south, approved industrial land uses to the west, the Major Corridor 85 (the "MC 85"), the Southern Pacific Union Pacific railway, and existing big box industrial to the north, the Site is an ideal location for an industrial development with an increased height of 70'.

As shown in the below site plan, five industrial buildings of various sizes are proposed. The buildings will range in size from 134,940 square feet to 295,000 square feet and each structure will contain a warehouse with an associated office space. As explained above, the maximum height for the proposed industrial development will be 70'. The sole access to the Site will be located on the MC-85 and will feed into an internalized private drive system. Approximately 296 standard parking spaces and 128 trailer parking spaces will be provided around the perimeter of the Site. In order to increase the aesthetic appeal of the Site, all roll up dock doors are strategically placed between the structures, to obstruct the view of the dock doors from the exterior of the Site.

PLANNED AREA DEVELOPMENT

The proposed rezoning follows the guidelines established in Section 1-3-1(D)(3) of the Ordinance, as outlined below:

> 1. Consistency with the goals, objectives, policies, and future land use map of City's General Plan. Consideration of current market factors, demographics, infrastructure, traffic, and environment issues, and if conditions have changed significantly since adoption of the General Plan.

On August 26, 2021, in a PAC meeting, the City endorsed the view that an industrial land use is most appropriate for the Site. The Site is presently zoned as part of the Riverside Park PAD and is designated as Business Park under the PAD, which supports industrial uses. The proposed rezoning of the Site to I-1 would further the goals and objectives of the General Plan, which identifies the Site for future industrial use.

> 2. Suitability of the physical and natural features of the subject property for the uses permitted under the proposed zoning district.

The Site is currently level, agricultural land with no existing structures or significant natural features. The Site is well suited for the wide range of commercial and industrial uses permitted under the proposed I-1 Zoning District.

3. Compatibility of all potential uses with the surrounding uses and zoning in terms of land suitability, environmental impacts, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential impact on property values.

The Site is surrounded by the following land uses:

- West: Undeveloped vacant land, zoned PAD with Residential allowable uses.
- North: MC 85, Southern Pacific Union Pacific railway immediately north of MC 85, then I-2.
- East: Undeveloped land zoned I-1 and owned by Lincoln Property Company, vacant land for the expansion of the City's wastewater treatment facility, and the City's existing wastewater treatment facility.
- South: Future SR 30, together with the Buckeye Irrigation District Canal.

The proposed I-1 Zoning District is consistent with the existing and planned uses adjacent to the Site and otherwise established in the general vicinity. Additionally, the Site is an ideal location for the proposed industrial uses because of its limited potential traffic impact, consistency in aesthetics in relation to the existing and planned uses of neighboring properties, and the existing and planned infrastructure in the immediate trade area.

4. The proposed zoning district's consistency with other land uses within the immediate area and whether the proposed zoning district would be better suited to the property than the current zoning.

As previously stated, the Site is designated as Business Park, which includes industrial as a supported use, as part of the Riverside Park PAD approved in 2005. The Riverside Park PAD designates the land west of Sarival for residential uses and the land east of Sarival for a Business Park to support industrial, manufacturing, warehousing, research and office uses. Since that time, development patterns in the area have changed, and the surrounding context has been predominantly developed with or has been planned for industrial uses. In 2019, 2,283 acres located south and east of MC 85, west of Sarival Avenue and north of the Gila River, was rezoned away from residential use to allow for more industrial and commercial uses. Given the existing and planned uses in the surrounding context and the market trend in the area toward industrial uses, the Site is an ideal location for industrial uses.

5. Demand of the types of uses permitted in the proposed zoning district in relation to amount of land currently zoned and available to accommodate the demand.

The proposed I-1 District Zoning is compatible and consistent with the surrounding land uses. Additionally, brokers at Lee & Associates, a leading Phoenix industrial brokerage, stated that the Site is uniquely suited for industrial development given both the market demand for industrial properties in the area and the limited number of competing industrial properties available within this trade area which have water, sewer, and transportation solutions available.

6. Demands for public services that will be generated by the uses permitted in the proposed zoning district and requirements for meeting such demands in terms of public infrastructure and facilities and other capital equipment, such as water supplies, water treatment, storage, and distribution facilities, wastewater treatment, recharge and distribution facilities, streets, bridges, schools, and emergency services facilities and equipment.

The Site is located adjacent to or near existing or planned public services, including water and sewer. Additionally, the demand for public infrastructure and services, including emergency services and schools, would be reduced as a result of rezoning the Site to I-1 when compared to several other zoning districts, such as residential. In the event that needs change in the immediate area, discussions with the City's engineering staff will continue in order to identify needed upgrades or additions to the City's public infrastructure and facilities.

- The Project's service providers include:
  - Power: APS
  - Water: City of Goodyear
  - Sewer: City of Goodyear
  - Gas: Southwest Gas
  - Telecom: Cox Communications, Century Link

7. Potential adverse fiscal impacts that will result from providing services to areas not in proximity to where existing public services are provided.

There is no projected increase in demand for public infrastructure and services caused by rezoning the Site to I-1 PAD. Therefore, no potential adverse fiscal impacts are anticipated.

The proposal anticipates providing offsite watermain and sewermain extension plans consistent with the IWMP as follows:

- A 16 inch watermain shall be extended within the MC85 right of way along the Site's MC85 frontage, or within a public easement located within the Industrial Project from Sarival Road to the Site's MC85 frontage. The 16 inch main will connect to a 16 inch watermain to the west at Sarival Road to a stub provided by the Quad 3 project (Eisenberg) and to a 16 inch watermain within Sarival Road to the north of the existing rail road on the north side of MC85. The 16 inch watermain will terminate with a stub for future watermain improvements at the east end of the Site's frontage on MC85. The intent is for the private developers to work in coordination to extend the 16 inch watermain from Cotton Lane to Sarival Road.
- An 8 inch sewermain shall be extended within Sarival Road from the SR30 alignment to a point of terminus near MC85. The Sarival Road sewermain shall be connected to an 8 inch sewermain that will be extended from the Lankin project and through the Eisenberg properties to the west of the OMP Industrial Project.
- Consistent with the guidelines as set forth by the City of Buckeye, the proposed project will provide retention facilities for the 100-year, 6-hour rainfall event for the Site and the

adjacent half-street improvements. Stormwater storage will be provided with landscape retention basin supplemented by underground stormwater storage systems.

- In accordance with the city guidelines and as determined by the Transportation Master Plan, the proposed project will dedicate half-street rights of way on both Sarival Road and 159th Avenue. Roadway improvement for the half streets of Sarival Road, 159th Avenue and MC85 will be provided with this project development.

8. General public's concerns (further evaluation will come from the public review process).

Given the existing and/or approved industrial land uses to the north and east of the Site, as well as the Site's proximity to MC 85 and the Southern Pacific Union Pacific main railway line immediately north of MC 85, concerns or objections from the general public are not expected. However, all concerns that may be raised during the Planning Commission or City Council public hearings will be addressed.

9. Whether the amendment promotes orderly growth and development.

The proposed rezoning of the Site to I-1 PAD is consistent with the General Plan, which guides orderly growth and development in the City. The Site is located adjacent to or near existing or planned public services, including water and sewer. The Site is ideally situated for industrial development, and there are a limited number of competing industrial properties available within this trade area which have water, sewer, and transportation solutions available. The proposed rezoning of the Site from PAD to I-1 PAD would facilitate orderly growth and development in this area of the City.

10. Any other factors related to the impact of the amendment on the general health, safety and welfare of the citizens of the City and the general public.

The foregoing adequately addresses all the factors related and relevant to the impact of the proposed amendment from PAD to I-1 PAD with regard to the general health, safety, and welfare of the citizens of the City and general public. The proposed rezoning is consistent with the goals and objectives of the General Plan, which guides thoughtful and orderly growth and development in the City. A rezoning of the Site will further economic development in the City, generating employment and revenue for the City.

CONCLUSION

In conclusion, this is a request to remove the Site from the Riverside Park PAD and rezone the Site to I-1 PAD in order to develop the Site with industrial uses. Given the Site's proximity to existing and future industrial uses, the MC 85, the future SR 30 alignment, and the Southern Pacific Union Pacific railway, the Site is ideally situated to develop with industrial uses. We appreciate the City's participation and cooperation as we have worked through the issues impacting the Site.

SEC Sarival and MC-85

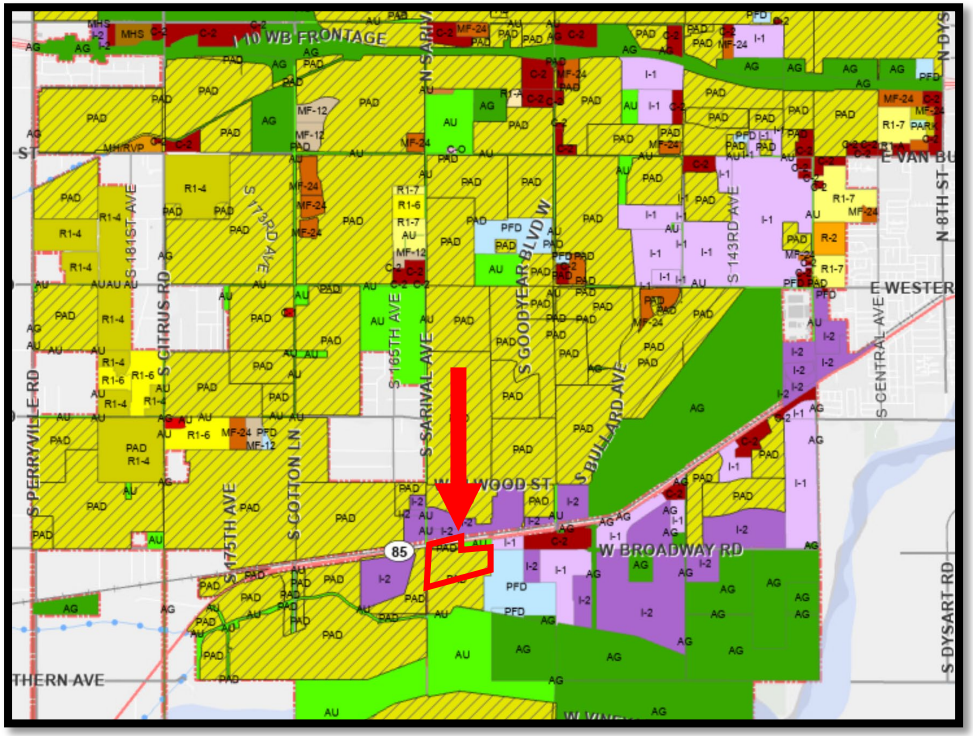
City Council Meeting
September 25, 2023



Location

CENTRAL GOODYEAR

- Approximately 47.35 Acres
- Currently zoned
  - PAD (Underlying Business Park)



Specific Location

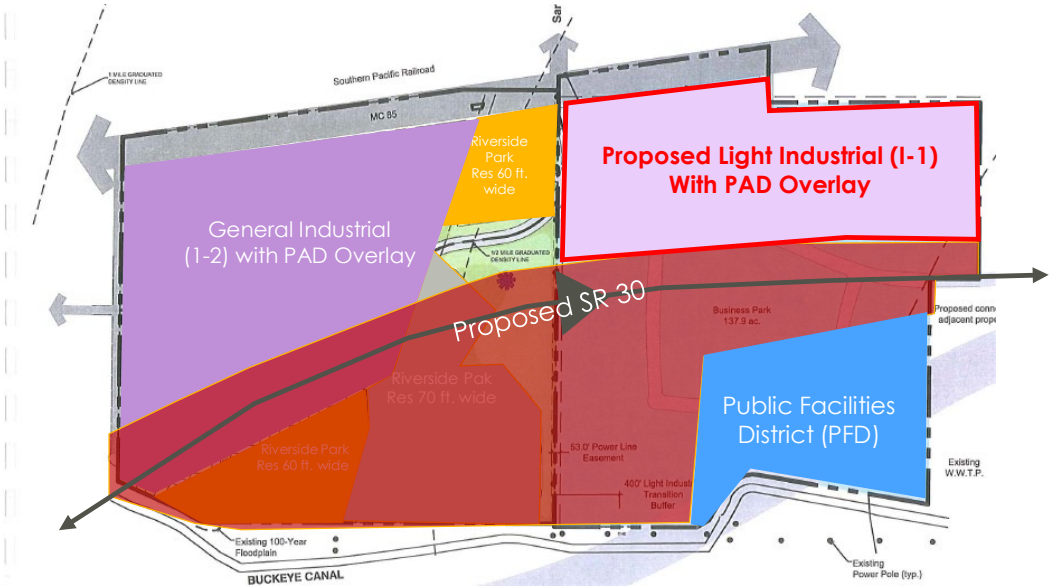
ZOOMED IN

- SEC Sarival Avenue and MC-85
  - North
    - MC-85, Maricopa County basin and Industrial
  - South
    - Future SR-30 and Goodyear 157th
  - East
    - Maricopa County basin and Goodyear 157th
  - West
    - Vacant Riverside Park preliminarily residential



Zoning History

FROM 2005 TO TODAY'S PROPOSAL

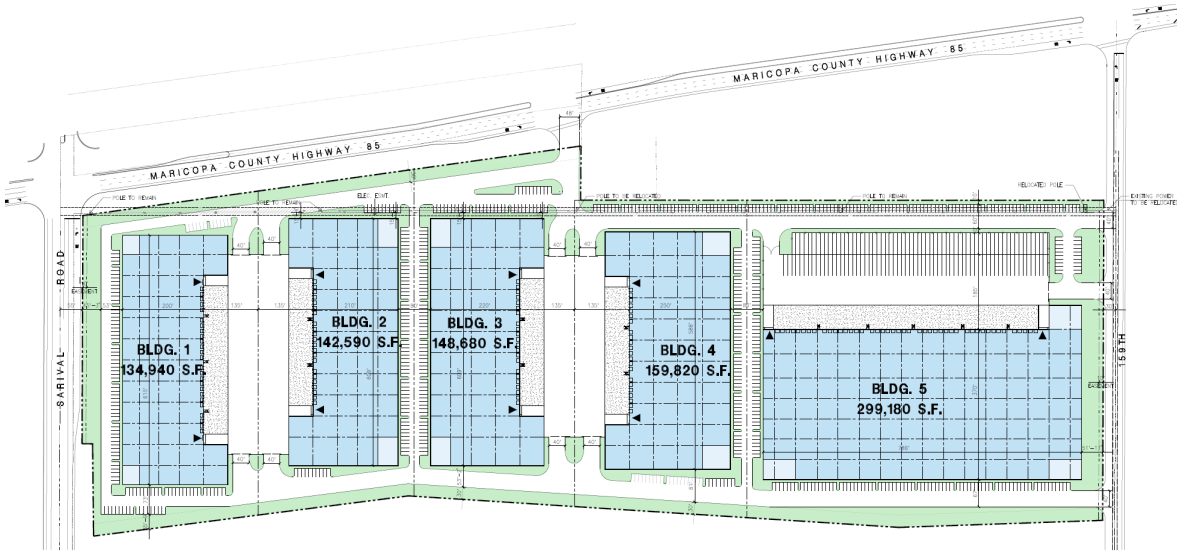


**Simplified SEC Sarival and MC-85 if rezoned and Riverside Park Preliminary PAD for illustrative purposes only

SEC Sarival and MC-85

PAD OVERLAY PROPOSAL

- Height Modifications
- Design Guideline Enhancements
  - Dock Doors



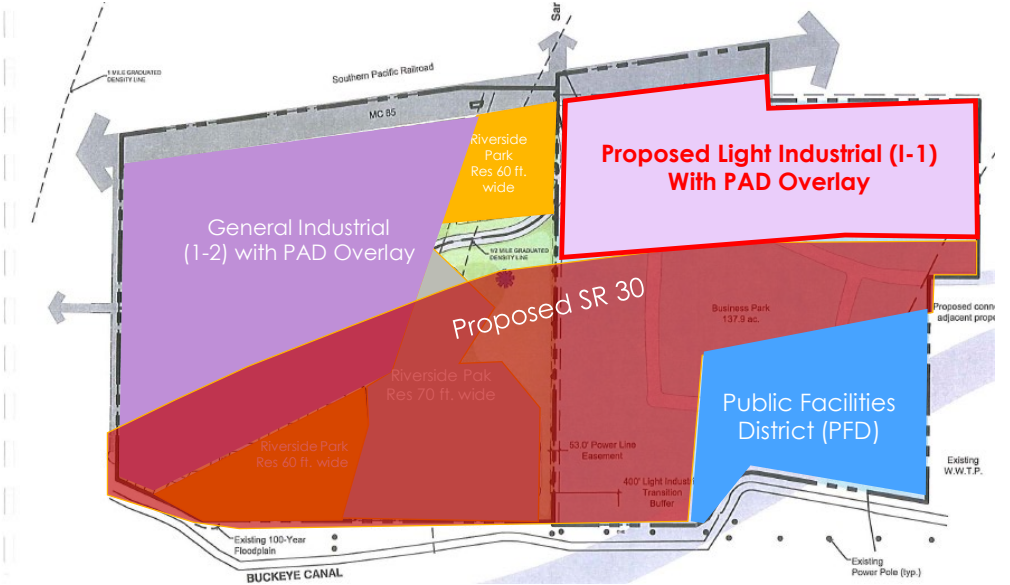


Arizona State Route 30 (Tres Rios)

FREEWAY PROPOSED



*Generally proposed location of State Route 30 for illustrative purposes only



**Simplified SEC Sarival and MC-85 if rezoned and Riverside Park Preliminary PAD for illustrative purposes only

Height and Surrounding Area

POWERLINES, FREEWAYS, CANALS AND RAIL

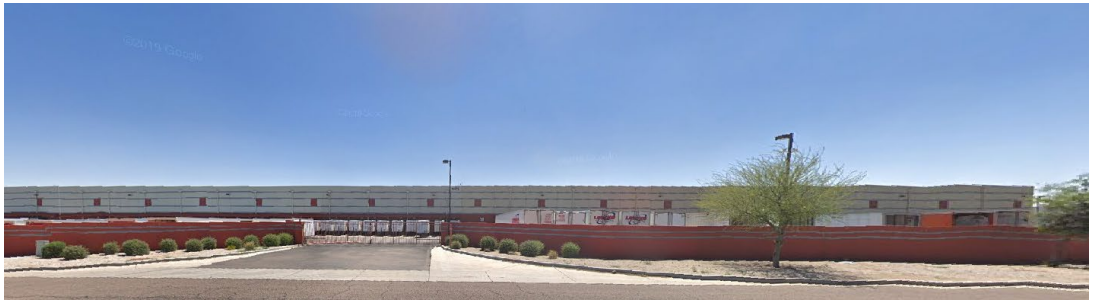












*Area photos for illustrative purposes only

Recommendation

APPROVE SUBJECT TO STIPULATIONS

- Recommend Approve Rezone:
  - FROM: Preliminary Planned Area Development (PAD)
    - Underlying Business Park
  - TO: I-1 (Light Industrial)
    - Height Modifications
    - Design Guideline Enhancements
      - Dock Doors

*Applicant Provided Renderings

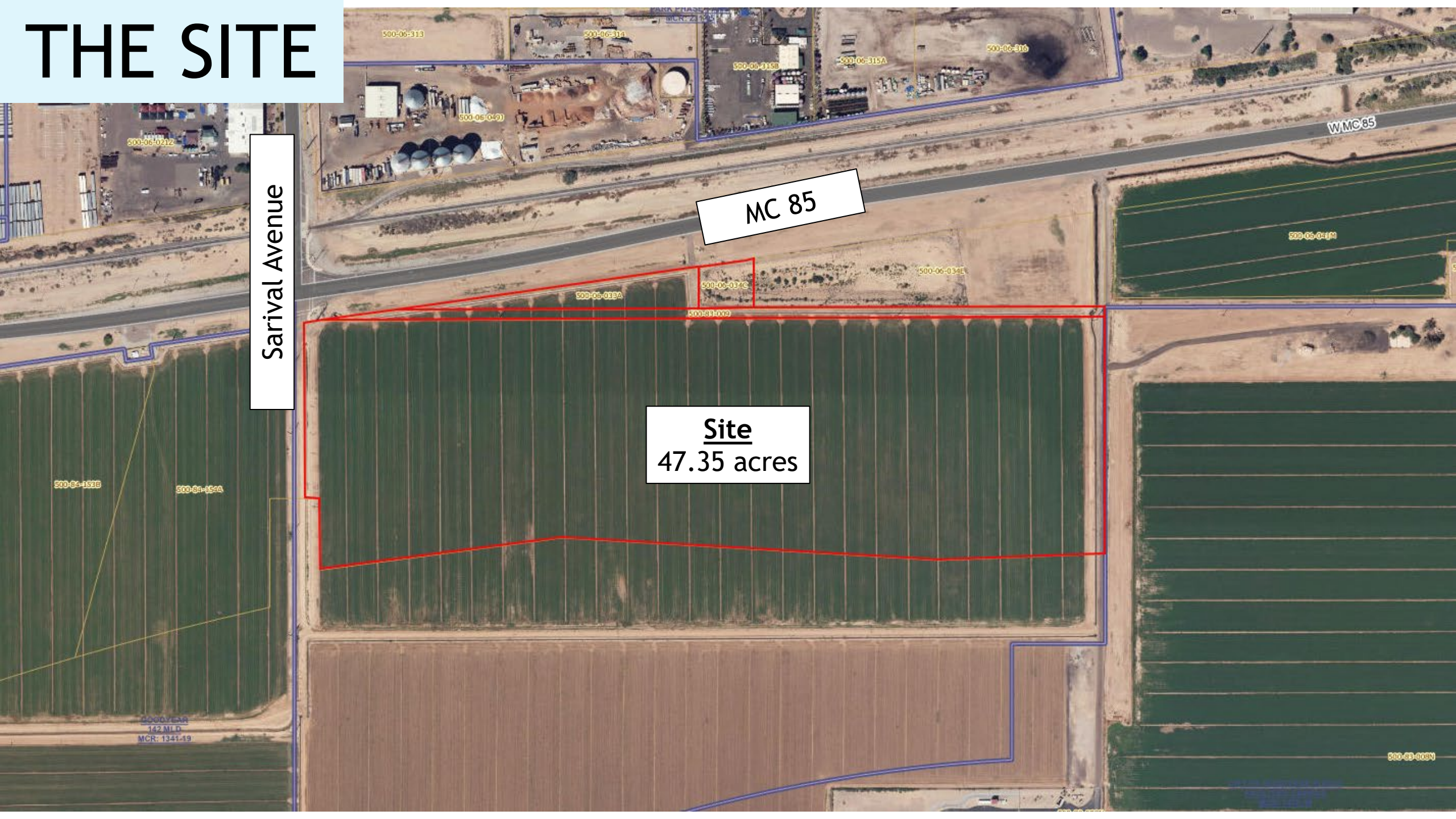

CITY OF
Goodyear

DIV Industrial

Case Number: 22-20000005

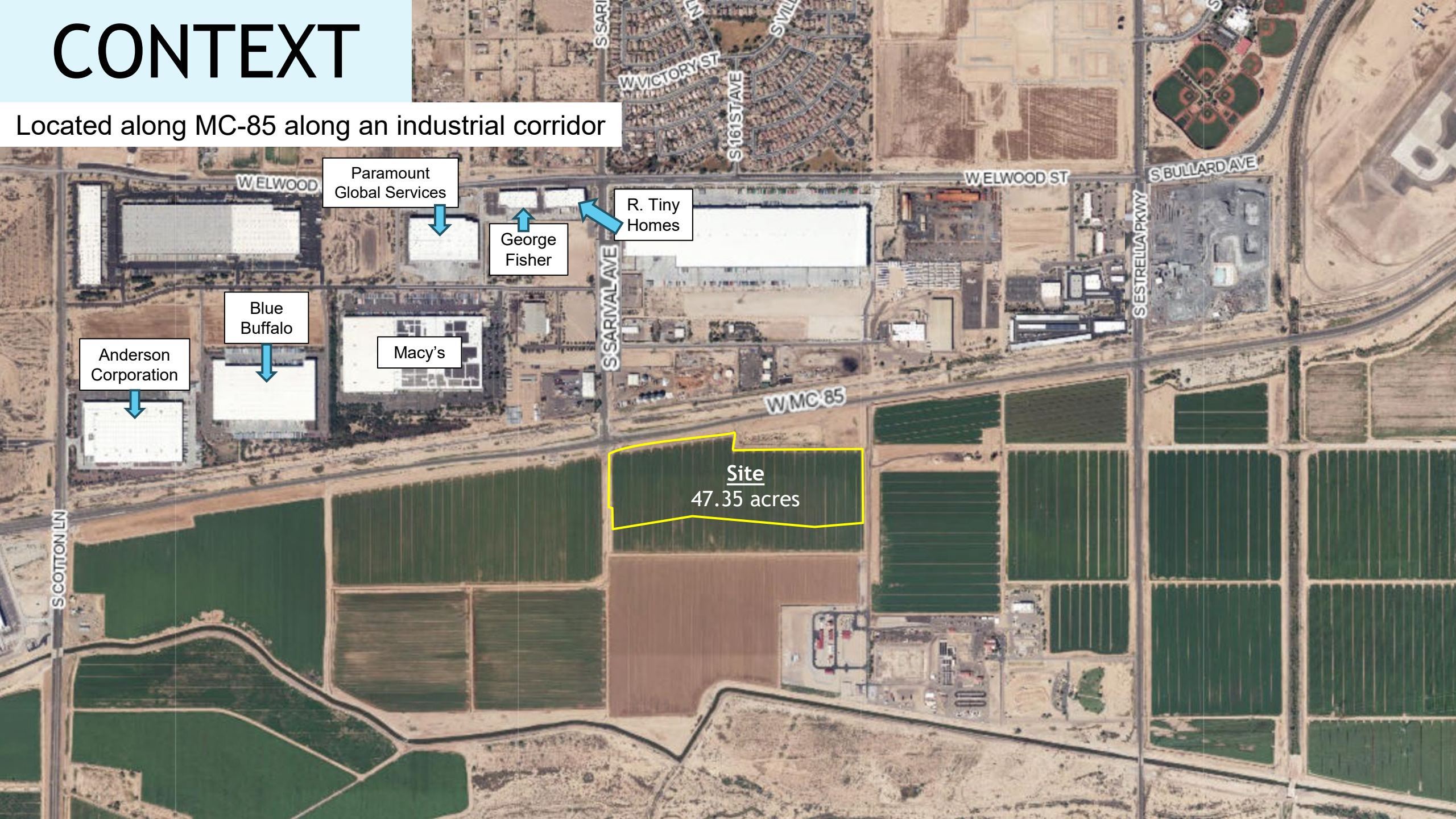
Planning Commission | September 13, 2023

THE SITE



CONTEXT

Located along MC-85 along an industrial corridor



FUTURE SR-30


10
N Perryville Rd
SR 303L
N Cotton Ln
W Van Buren St
Goodyear
N Litchfield Rd
N Central Ave
N Dysart Rd
Agua Fria River
Avondale
S Avondale Blvd
S 107th Ave
Tolleson
Phoenix
W Van Buren St
W Buckeye Rd
W Yuma Rd
85
S Sarival Ave
S Estrella Pkwy
Phoenix Goodyear Airport
S El Mirage Rd
S 91st Ave
S 83rd Ave
S 75th Ave
S 67th Ave
S 59th Ave
W Lower Buckeye Rd
E Lower Buckeye Rd
W Lower Buckeye Rd
W Elwood St
S Perryville Rd
Site
Avondale Wastewater Treatment Plant
Dysart Rd
S 99th Ave
W Broadway Rd
Goodyear Wastewater Treatment Plant
S Estrella Pkwy
S Bullard Ave
91st Ave Wastewater Treatment Plant
S 91st Ave
S 67th Ave
SR 202L
85
S Cotton Ln
Salt River
Gila River
Estrella Mountain Regional Park
W Indian Springs Rd
Phoenix International Raceway
LEGEND
N
Selected Alternative
Proposed SR 303L with SR 30 Connection
Future 202L
Map not to scale

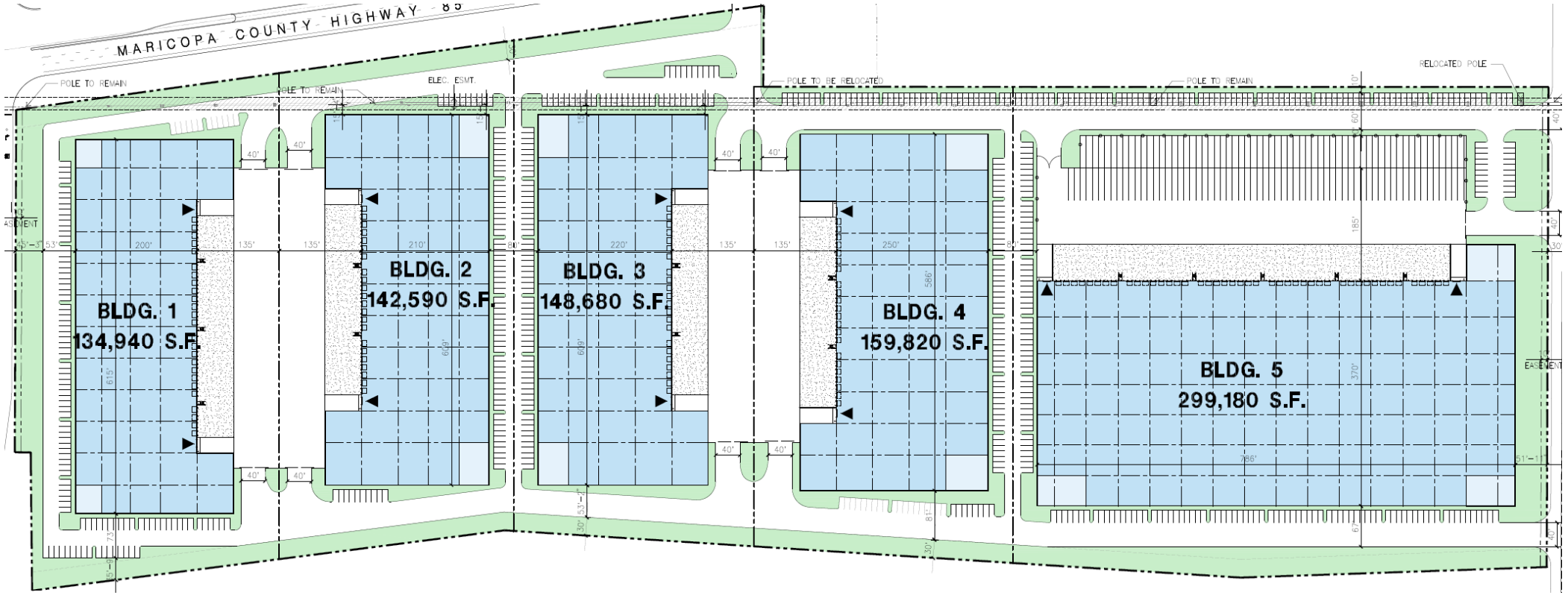
REQUEST

- **Rezone** the 47.35-acre Site **from** the Riverside Park Planned Area Development ("**PAD**") **to** Light Industrial with a Planned Area Development Overlay ("**I-1 PAD**") **to allow the Site to be developed with business park uses**.

- The **purpose of the PAD** is to **increase** the maximum **height from 50' to 70'** to accommodate a wider range of business park users.

- **No cross-docks are permitted.**

CONCEPTUAL SITE PLAN



- Five buildings ranging in size from +/-134,000 square feet to 299,000 square feet
- Height: Maximum of 70 feet
- Access: All access is off MC-85 with **no access on Sarival Avenue**

CONCEPTUAL ELEVATIONS



North Elevation - Maricopa County Highway 85



West Elevation - Sarival Road



South Elevation



East Elevation

THANK YOU!

CONCEPTUAL ELEVATIONS



North Elevation - Maricopa County Highway 85



West Elevation



South Elevation



East Elevation

ITEM #: 15.
DATE: 09/25/2023
AI #:1615

CITY COUNCIL ACTION REPORT

SUBJECT: REZONE APPROXIMATELY 47.09 ACRES FROM C-2 GENERAL COMMERCIAL AND AG- AGRICULTURE TO I-1 (LIGHT INDUSTRIAL) WITH PAD OVERLAY

STAFF PRESENTER(S): Christian M. Williams, AICP, Principal Planner

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SUMMARY

Request a rezone of approximately 47.09 acres generally located at the southeast corner of N. Citrus Road and W. McDowell Road from C-2 (General Commercial) and AG (Agricultural) to I-1 (Light Industrial) with PAD Overlay.

STRATEGIC PLAN ALIGNMENT



RECOMMENDATION

1. ADOPT RESOLUTION NO. 2023-2331, DECLARING AS PUBLIC RECORDS THOSE CERTAIN DOCUMENTS REFERRED TO AND INCORPORATED BY REFERENCE IN ORDINANCE NO. 2023-1578 FILED WITH THE CITY CLERK RELATED TO THE REZONING CASE FOR – SEC CITRUS AND MCDOWELL.

2. ADOPT ORDINANCE NO. 2023-1578, CONDITIONALLY REZONING APPROXIMATELY 47.09 ACRES OF PROPERTY LOCATED AT THE SOUTHEAST CORNER OF CITRUS ROAD AND MCDOWELL ROAD FROM C-2 (GENERAL COMMERCIAL) AND AGRICULTURAL (AG) TO THE PLANNED AREA DEVELOPMENT (PAD) ZONING DISTRICT WITH AN UNDERLYING ZONING DISTRICT OF I-1 (LIGHT INDUSTRIAL) WITH PLANNED AREA DEVELOPMENT (PAD) OVERLAY; 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.

ALTERNATIVE ACTION TO APPROVE WITH MODIFICATION TO STIPULATIONS:

1. ADOPT RESOLUTION NO. 2023-2331, DECLARING AS PUBLIC RECORDS THOSE CERTAIN DOCUMENTS REFERRED TO AND INCORPORATED BY REFERENCE IN ORDINANCE NO. 2023-1578 FILED WITH THE CITY CLERK RELATED TO THE REZONING CASE FOR – SEC CITRUS AND MCDOWELL.

2. ADOPT ORDINANCE NO. 2023-1578, CONDITIONALLY REZONING APPROXIMATELY 47.09 ACRES OF PROPERTY LOCATED AT THE SOUTHEAST CORNER OF CITRUS ROAD AND MCDOWELL ROAD FROM C-2 (GENERAL COMMERCIAL) AND AGRICULTURAL (AG) TO THE PLANNED AREA DEVELOPMENT (PAD) ZONING DISTRICT WITH AN UNDERLYING ZONING DISTRICT OF I-1 (LIGHT INDUSTRIAL) WITH PLANNED AREA DEVELOPMENT (PAD) OVERLAY; 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 SUBJECT TO THE FOLLOWING AMENDMENTS:

STIPULATIONS AS FOLLOWS:

a. Stipulation 3 is amended to read:
"Prior to the issuance of any permit, excluding mass grading, Owner shall provide the city with either (1) evidence that the Arizona Corporation Commission has approved the contiguous extension of EPCOR's Certificate of Convenience and Necessity (CC&N) to provide water services within the applicable area of the Property or (2) that EPCOR has obtained a Commission-approved Certificate of Convenience and Necessity (CC&N) authorizing EPCOR to provide water services within the applicable area of the Property"; and
b. Stipulation 14 is amended to read:
"Owner shall construct, at Owner's sole cost and expense, all on-site and off-site infrastructure improvements determined by the City as being necessary to provide wastewater service to the Property, including the improvements identified in the sewer report as required by the EDSPM and the City during review of the Site Plan/ and or construction plans". (Christian M. Williams, AICP, Principal Planner)

FISCAL IMPACT

Although a fiscal impact analysis has not been conducted on this specific project, all new development will have an ongoing fiscal impact on the city. The development is responsible for construction of all infrastructure necessary to serve the site and will generate one-time revenue for the city through payment of permits, construction sales tax and development impact fees. Longer term fiscal impacts include increased demands for municipal services, the costs of which may or may not be offset by increased property values/tax levies, city sales tax, state shared revenues and the increased demand for commercial and retail development. Any areas that will be maintained by the city are constructed by the developer and then conveyed to the city two years after construction.

BACKGROUND AND PREVIOUS ACTIONS

The approximately 47.09 acres that is the subject of this rezoning request (the "Property") is located at the southeast corner of N. Citrus Road and W. McDowell Road. The Property was part of approximately 1,734 acres of property conditionally annexed into the city on February 24, 1982 by Ordinance No. 82-142, as the AG (Agricultural) zoning district.

On March 22,1999, the City Council adopted Ordinance 99-645, which conditionally rezoned approximately 60 acres of property from the AG (Agricultural) zoning district to the C-2 (General Commercial) zoning district for the development of the Goodyear Marketplace (the "Goodyear Marketplace Rezoning"). Approximately 44.20 acres of the Property, was included within the Goodyear Marketplace Rezoning. The remaining approximately 2.88 acres of the Property remains in the AG (Agricultural) zoning District. The requested rezoning would rezone approximately 44.20 acres of Property from the current C-2 (General Commercial) zoning district and approximately 2.88 acres from the current AG (Agricultural) zoning district to the Planned Area Development ("PAD") zoning district with an underlying zoning district of I-1 (Light Industrial) zoning district and a PAD Overlay

The Goodyear 2025 General Plan Land Use Designation for this property is 'Business and Commerce'.

STAFF ANALYSIS

Current Policy:

A rezoning request requires public review and vote by the Planning and Zoning Commission and the City Council. The proposed rezoning must be in conformance with the General Plan and should not adversely impact the surrounding area. As set forth below, the proposed zoning is both consistent with the General Plan and will not adversely impact the surrounding area.

Details of the Request:

The current proposal requests to rezone the approximately 47.09 acres from
C-2 (General Commercial) and AG (Agricultural) to I-1 (Light Industrial) with a PAD Overlay. The rezone would change the currently allowed uses on the property from commercial and agricultural to industrial with a PAD overlay that would allow certain additional permitted uses including electric vehicle charging facilities for trucks and automobiles, a convenience use gas station and a car wash. Although development within the I-1 (Light Industrial) Zoning District is required to be developed under the Employment, Industrial chapter of the Goodyear Design Guidelines, the PAD Overly requires that any convenience use gas station and car wash be developed in accordance with the Commercial Mixed-Use chapter of the Goodyear Design

Guidelines.

The use of a PAD Overlay is justified because the current development standards for I-1 (Light Industrial) do not include as permitted uses electrical vehicle charging facilities for semi-trucks and automobiles with accessory lounge and waiting facilities or Gas Station Convenience Uses (defined below) with accessory car washes. However, these uses are appropriate at this location due to its proximate location to the freeway and distance from residential developments, and the conditions for the development of the convenience gas station with accessory car wash provide for enhancements that will provide for an attractive development.

The proposed PAD overlay will modify the I-1 (Light Industrial) standards as follows:

Development Standards:

- A gas station with a convenience store ("Gas Station Convenience Use") shall be considered a conditionally permitted use subject to the following:
  - Limited to one Gas Station Convenience Use within in the entire Property.
  - A decorative shade structure with seating shall be located adjacent to the hard corner of Citrus Road and McDowell Road.The Gas Station Convenience.
  - Use shall be developed in accordance with City of Goodyear Design Guidelines Chapter 4 (Commercial and Mixed Use Development).
- A car wash shall be considered a conditionally permitted accessory use to the Gas Station Convenience Use subject to the following:
  - Car wash is allowed only as an accessory to a permitted Gas Station Convenience Use (only one gas station is permitted within entire Property).
  - A car wash in a stand-alone building shall not be located closer than 300 feet from an arterial to arterial intersection.
  - The noise generated from the operation of the car wash shall not exceed 74.1dB from the footprint of the car wash facilities. Prior to the issuance of a Temporary Certificate of Occupancy that will allow for the operation of the car wash or a permanent Certificate of Occupancy the property owner or operator of the car wash shall submit a noise study/test that demonstrates that the noise generated by the operation of the car wash does not exceed the noise limits set forth herein. The property owner or operator of the car wash shall make all modifications to its equipment and/or to the site as needed to ensure that the noise generated from the operation of the car wash does not exceed 74.1dB as measured from the footprint of the car wash facilities.
  - A car wash shall be developed in accordance with City of Goodyear Design Guidelines Chapter 4 (Commercial and Mixed Use Development).
- Electric Vehicle Charging Facilities for charging trucks and automobiles shall be considered a principally permitted use. Electrical cabinets and mechanical equipment associated with the development of such facilities shall be screened.
  - Buildings for lounging and waiting for persons using Electric Vehicle Charging Facilities shall be a permitted accessory use to a permitted Electric Vehicle Charging Facility. Such accessory buildings shall not include facilities for overnight stays.
  - All buildings shall compliment the overall site architecture while following the city of Goodyear Design Guidelines.
- Additionally, enhanced design standards are being placed on the property such as:
  - No cross-dock warehousing (i.e. warehouses with dock doors for loading and unloading of stored goods) and no cross-dock transfer facilities (i.e. facilities that provide for the transfer of goods from incoming vehicles to outbound vehicles with little or no storage) are permitted on the Property.
  - Except as provided herein, no more than four (4) roll-up doors and/or service and wash bay doors shall be permitted to face Interstate-10 (Papago Freeway) and no more than (4) roll-up doors and/or service and wash bay doors shall be permitted to face W. McDowell Road. The number of roll-up doors and/or service and wash bay doors permitted herein may be increased by no more than 50% if additional screening measures are to be implemented and the Zoning Administrator or his/her designee determines that the additional screening measures prevents or substantially limits the visibility of the roll-up doors and/or service and wash bay doors from being seen from the property south of the Property (Interstate-10 (Papago Freeway)) and from W. McDowell Road.
  - Except for the roll-up doors and service wash bay doors described above, roll-up doors and/or service and wash bay doors shall be oriented to face east and west and be oriented in a manner so the roll-up door and/or service and wash bay doors of the industrial buildings are not visible from N. Citrus Road.
  - The western most industrial buildings shall have a direct pedestrian connection to Citrus Road.
  - A thirty-foot (30') landscape buffer is to be constructed along the southern boundary of the Property. The buffer shall include earthen berms with a maximum height of six feet (6') and a

maximum slope of 3:1. A minimum of one 24-inch nondeciduous box tree and one 15-gallon nondeciduous box tree shall be planted for every 30-feet of highway-adjacent lot line;

- A minimum of one (1) outdoor shaded employee break area shall be provided for each building that exceeds 50,000 square feet.
- Building color schemes, wall materials and colors and architectural elements shall be cohesive between the development on the entirety of the Property.
- Buildings should include bold colors and not simply be a gray base color with shades of gray, black and white but rather a neutral desert base color with additional bolder accent colors to add vibrancy.

Amendment Request:

Following the Planning and Zoning Commission, representatives of the Property Owner approached staff about modifying two of the stipulations in the form of ordinance approved by the Planning and Zoning Commission. Each requested modification is discussed in turn.

Modifications to Stipulation 3:

The Property is located within the city's water and wastewater service area. However, given the location of the Property, the cost of constructing the infrastructure needed for the city to provide water service to the Property is cost prohibitive. The Property owner approached the city about allowing EPCOR to provide water service to the Property. City staff was willing to support this, but this change requires approval of the Arizona Corporation Commission (the "ACC"). Because final plats and site plan require the identification of water infrastructure needed to serve the impacted property, the following stipulation was included in the ordinance that was approved by the Planning and Zoning Commission:

"3. Prior to the approval of any final plat, subdividing all or part of the Property, the approval of any site plan for development within the Property and/or the issuance of any permit for work within the Property, Owner shall provide the city with either (1) evidence that the Arizona Corporation Commission has approved the contiguous extension of EPCOR's Certificate of Convenience and Necessity (CC&N) to provide water services within the applicable area of the Property or (2) that EPCOR has obtained a Commission-approved Certificate of Convenience and Necessity (CC&N) authorizing EPCOR to provide water services within the applicable area of the Property";

The applicant asked that this be modified so that site plan and final plat approval was not contingent upon the ACC approving the request allowing EPCOR to provide water service to the property. Under the proposed revision, which is set forth in the recommendation above, no permits would be issued for work on the Property except for at risk mass grading until the ACC approved EPCOR's request. If the request is not granted, both the final plat and site plan would expire and the Property owner would have to start the process over.

Modifications to Stipulation 14:

Under applicable development regulations, water and sewer reports are required to be submitted and approved by the City prior to taking rezoning councils to the Planning and Zoning Commission. This allows staff to consider the impact of the proposed rezoning on existing infrastructure and to identify typical and atypical infrastructure improvements that will need to be constructed to support the proposed development. For instance, if a proposed rezoning would result in an increase in the intensity of demand on water infrastructure that might negatively impact other properties by say reducing water pressure available to the impacted properties, staff would identify infrastructure that would be required to eliminate this negative impact.

Often times, however, property owners push for their rezoning cases to proceed before the reports are completed. In these cases, stipulations are included to require completion of the reports and a general obligation to construct the improvements identified in the approved reports. Staff frequently include specific requirements to address the deficiencies in the reports, which were the reason the reports could not be approved and the stipulations identify potential infrastructure staff believes might be required based on the information available at the time of the rezoning. In this case, staff included the following stipulation in the ordinance presented to the Planning and Zoning Commission, which included the possibility of upgrades to an existing sewer line.

"14. Owner shall construct, at Owner's sole cost and expense, all on-site and off-site infrastructure improvements determined by the City as being necessary to provide wastewater service to the

Property, including the improvements identified in the sewer report Owner is to submit as approved by the City and those required to be constructed pursuant to the requirements in the EDS&PM. This may include, by way of example but not limitation, upgrades to the existing public 18-inch PVC gravity sewer main running along W. McDowell Road across the northern boundary of the proposed site, which increases to 24-inches downstream of the Arizona Department of Corrections Facility";

The applicant asked that this be modified to eliminate the reference to potential upgrades that might be required to the existing sewer line. The proposed modification is set forth in the recommendation section above.

Evaluation Criteria:

Per the city of Goodyear Zoning Ordinance, the city's review and recommendation on a zoning amendment is to be guided by the following criteria:

1. Consistency with the General Plan.

The subject property is located within the Business & Commerce land use category of the city's 2025 General Plan. This category is intended to provide areas for the growth and development of Goodyear's economic base, including large areas for shopping and entertainment that are regionally significant (typically serving a trade area of 5?10 miles or larger). Business & Commerce does also include uses such as business parks, offices, warehouses, regional hospitals, high density residential that supports the area, and other light industrial uses that are also appropriate, in certain areas. This rezoning to I-1 (Light Industrial) with a PAD Overlay proposes industrial and certain commercial uses that are consistent with the General Plan Business & Commerce land use category.

2. Suitability of the subject property's physical and natural features for the uses permitted under the proposed zoning district.

The Site is generally flat with no physical or natural features that would hinder the development of the proposed project.

3. Compatibility of all potential uses allowed in the proposed zoning district with surrounding uses and zoning.

Current and future uses and development of the properties surrounding the subject property include:

North – Arizona State Land Department (Arizona Department of Corrections Property);
South – Interstate 10 (Papago Freeway) and 10 Goodyear Development (Innovation Centre) (Industrial, Business Park, Retail);
East – Arizona State Route 303 Loop (Stump Memorial Parkway) and PebbleCreek (master-planned community);
West – Citrus Road and Virtua Citrus zoned C-2 with a PAD Overlay;

4. Proposed zoning district's consistency with other land uses within the immediate area and whether uses allowed under the proposed zoning district would be better suited to the subject property than the uses allowed under the current zoning.

Luke Air Force Base:

The property does not fall within the Luke Air Force Base Accident Potential Zone or the DNL. However, the subject property is located within the vicinity of a military airport. Given the location of the property and the proposed zoning, base operations will not be adversely impacted by this development.

Phoenix-Goodyear Airport:

The property does not fall within the Phoenix-Goodyear Airport DNL.

5. Demand for the types of uses permitted in the proposed zoning district in relation to the amount of land currently zoned and available to accommodate the demand.

The applicant has indicated there is market demand for additional business park and industrial spaces as well as a need for fueling stations for both automobiles and semi-trucks in the form of gasoline and electric.

6. Demands for public services that will be generated by the uses permitted in the proposed zoning

district.

School Districts:

The subject property is located within the Litchfield Elementary School District and the Agua Fria Union High School District. Due to the non-residential nature of the land use, the school district should not be impacted from a student enrollment standpoint.

Fire Response:

Emergency response times and distances are provided below:

Nearest Goodyear Fire Station	**Shortest Path**		**2nd Nearest Goodyear Fire Station**	**Shortest path**	
Fire Station #184	**Mins 7.68**	**Miles 3.81**	**Fire Station #185**	**Mins 8.72**	**Miles 4.36**

Police Response:

The proposed development is located within an existing police patrol beat and the current level of service within the beat can accommodate the development of the property.

Streets/Transportation:

The property will be accessed exclusively via McDowell Road unless the Arizona Department of Transportation agrees to allowing access onto Citrus Road. The Engineering Department has created stipulations to address traffic requirements applicable to this development. Power lines and their poles may require relocation. Those stipulations include the requirement for improving McDowell Road and Citrus Road to city standards as well as contributions towards traffic signals at McDowell Road and Citrus Road.

Water/Wastewater:

The subject property is in the far northwestern portion of the Goodyear Water Services territory. Due to constraints, the city is supportive of the developer working with EPCOR to provide water service while retaining the site within the city of Goodyear Sewer territory.

7. Potential adverse fiscal impacts that will result from providing services to areas not in proximity to where existing public services are provided.

The developer will be responsible for extending service infrastructure needed to support the property and will pay their proportionate share of impact fees for regional growth.

8. General public concerns.

Public Participation and Planning and Zoning Commission Meeting:

An alternative notification process was used for this rezoning. A formal citizen review meeting was not held, but notice providing information on the rezone was mailed to 19 owners of property within 500 feet of the subject property and other stakeholders on July 21, 2023. There was no objection to the rezone received.

A public notice that this rezoning request would be considered and reviewed at a public hearing to be held before the Planning and Zoning Commission on September 13, 2023 appeared in the Arizona Republic Southwest Valley Edition August 25, 2023; postcards were mailed to adjoining owners on August 16, 2023; and a sign was posted on the site on August 29, 2023.

The Planning and Zoning Commission considered this item at their regular meeting of September 13, 2023. Upon conclusion of the staff presentation, Commissioners unanimously voted (5-0) to forward a recommendation of approval to the City Council.

9. Whether the amendment promotes orderly growth and development.

The subject property is within a quarter mile of existing development and located within the proximity of City services and infrastructure.

10. Any other factors related to the impact of the amendment on the general health, safety and welfare of the citizens of the City and the general public.

The proposed development will convert an underutilized site into industrial land which allows for the creation of jobs. The site is proximate to the junction of Interstate-10 (Papago Freeway) and Arizona State Route 303 Loop (Stump Memorial Parkway) (approximately one-third of a mile).

Attachments

Resolutions and Exhibits
Ordinance
Aerial Exhibit
Narrative
Presentation
Applicant Presentation

RESOLUTION NO. 2023-2331

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, DECLARING AS PUBLIC RECORDS THOSE CERTAIN DOCUMENTS REFERRED TO AND INCORPORATED BY REFERENCE IN ORDINANCE NO. 2023-1578 FILED WITH THE CITY CLERK RELATED TO THE REZONING CASE FOR – SEC CITRUS AND MCDOWELL.

Be it resolved by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, as follows:

SECTION 1. DECLARATION OF PUBLIC RECORDS

That certain document titled "Official Supplementary Zoning Map No. 22-23," a copy of which is attached hereto as Exhibit A, is hereby declared a public record.

That certain document titled "Zoning Exhibit Legal Description," a copy of which is attached hereto as Exhibit B, is hereby declared a public record.

SECTION 2. PURPOSE

The aforementioned documents are declared public records in connection with the adoption of Ordinance 2023-1578.

SECTION 3. COPIES FILED WITH THE CITY CLERK

Either three paper copies or one paper copy and one electronic copy maintained in compliance with section A.R.S 44-7041 of each of the aforementioned documents being declared public records herein are ordered to remain on file with the City Clerk and to be available for public use and inspection during regular business hours.

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:

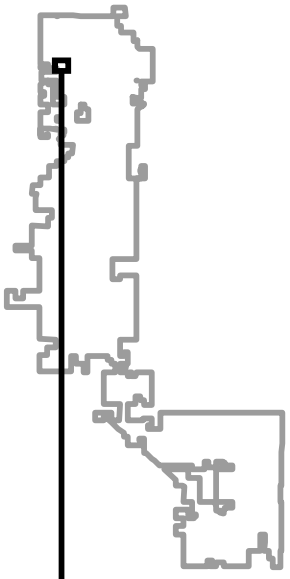
_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

OFFICIAL SUPPLEMENTARY ZONING MAP NO. 22-23

AMENDING ARTICLE 1, SECTION 1-1-4 OF THE ZONING ORDINANCE OF THE CITY OF GOODYEAR. AMENDED BY ORDINANCE NO._____, PASSED BY THE CITY COUNCIL OF THE CITY OF GOODYEAR, ARIZONA, THIS _____ DAY OF _____, 2023.

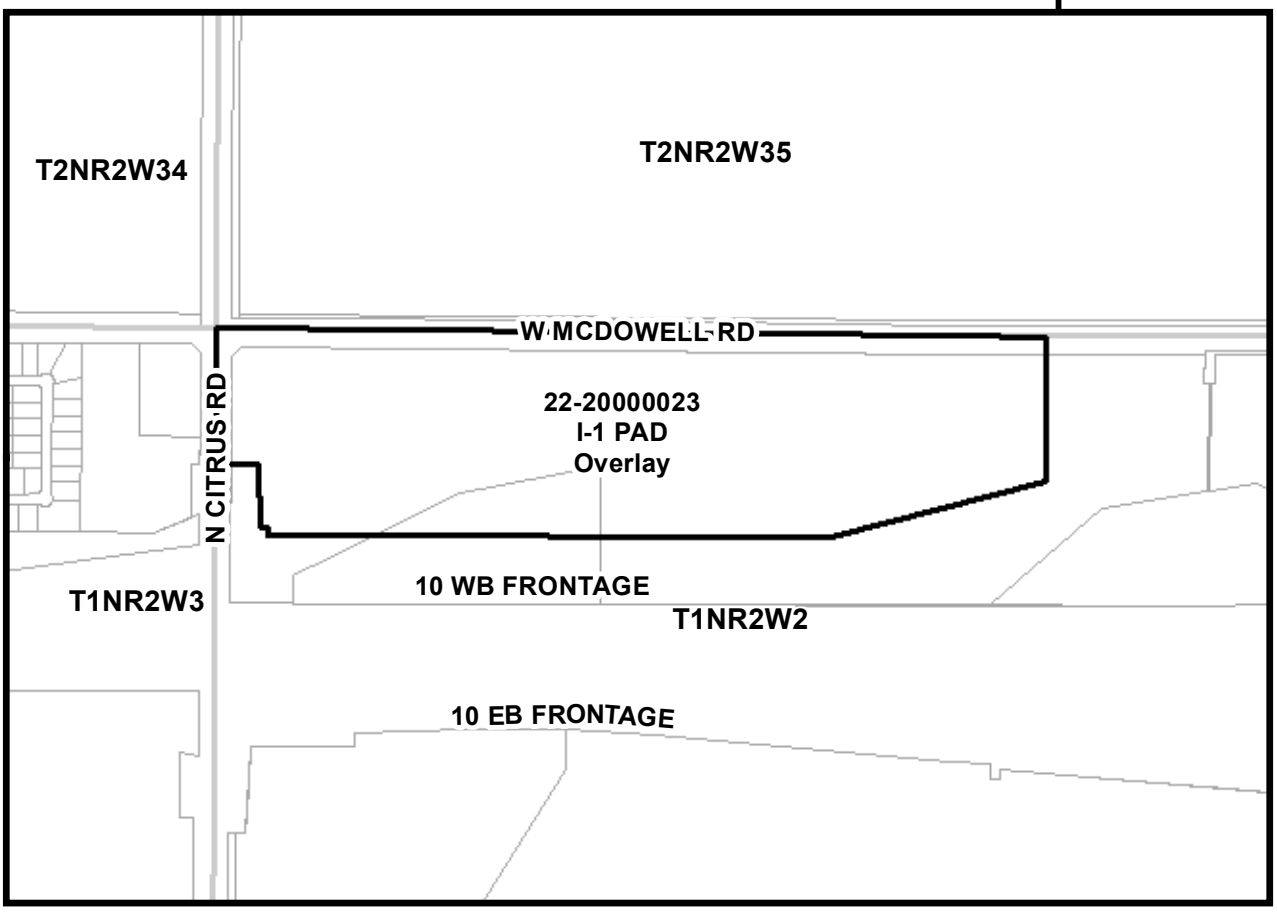


_____
MAYOR

_____
CITY CLERK

SUBJECT PROPERTY:

A portion of the Northwest Quarter Section 2, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.



SOURCE: CITY OF GOODYEAR G.I.S.

CITY OF GOODYEAR, AZ - REZONE CASE

EXHIBIT		DATE:
A	REZONE FROM AG AND C-2 TO I-1 W/ PAD OVERLAY 22-200-00023	Sept. 2023

ZONING EXHIBIT LEGAL DESCRIPTION

BEARINGS AND DISTANCES REFERENCED HEREON PER ALTA/NSPS LAND TITLE SURVEY PREPARED BY ENTELLUS, JOB NUMBER 100207, DATED 8/04/22.

THAT PORTION OF THE NORTH HALF OF SECTION 2, TOWNSHIP 1 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 2, FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 2 BEARS SOUTH 89°26'08" EAST, A DISTANCE OF 2644.95 FEET;

THENCE SOUTH 89°26'08" EAST, ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 2, A DISTANCE OF 2644.95 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 2;

THENCE, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 2, SOUTH 89°54'08" EAST, A DISTANCE OF 331.87 FEET;

THENCE SOUTH 00°05'57" WEST, A DISTANCE OF 519.34 FEET;

THENCE SOUTH 75°20'53" WEST, A DISTANCE OF 794.85 FEET;

THENCE NORTH 89°42'57" WEST, A DISTANCE OF 2022.26 FEET;

THENCE NORTH 00°00'04" EAST, A DISTANCE OF 26.64 FEET;

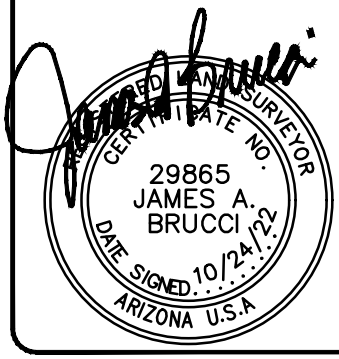
THENCE NORTH 89°59'56" WEST, A DISTANCE OF 27.01 FEET;

THENCE NORTH 01°15'09" WEST, A DISTANCE OF 226.28 FEET;

THENCE SOUTH 89°30'57" WEST, A DISTANCE OF 155.01 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 2;

THENCE NORTH 00°17'03" EAST, ALONG SAID WEST LINE, A DISTANCE OF 485.44 FEET TO THE POINT OF BEGINNING;

SAID DESCRIPTION CONTAINING 2,051,409 SQUARE FEET OR 47.09 ACRES MORE OR LESS.

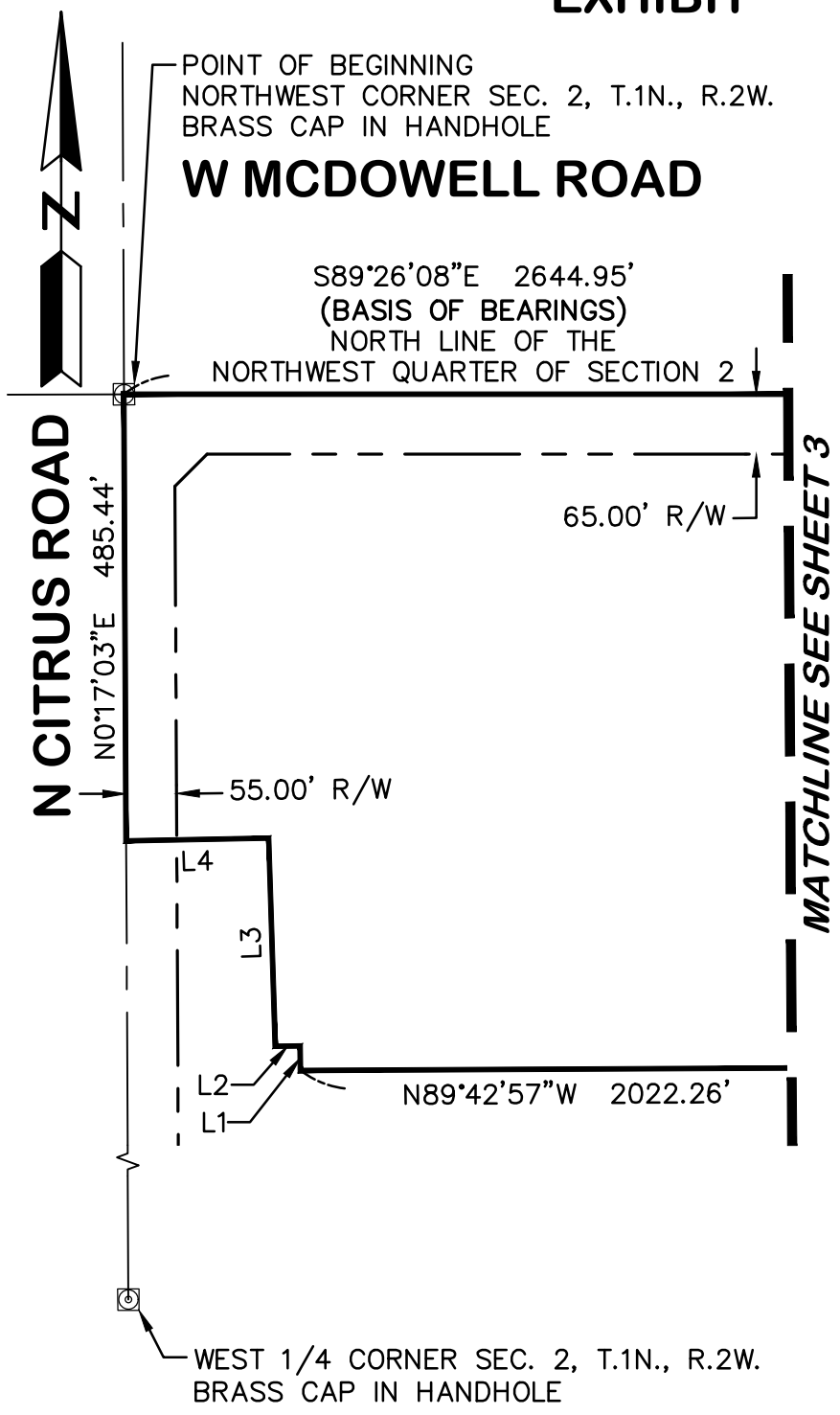


TITLE:	XB01
DATE:	10/24/22
DESC:	ZONING EXHIBIT

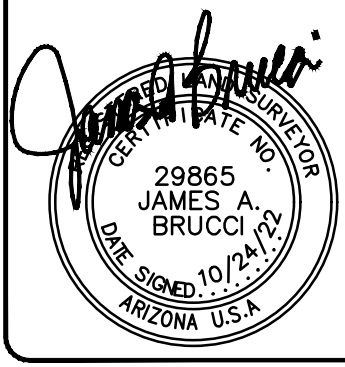
HUNTER
ENGINEERING | CIVIL AND SURVEY
10450 N. 74TH ST., SUITE 200
SCOTTSDALE, AZ 85258
T 480 991 3985
F 480 991 3986

PROJ.NO.
BAKE009 XB01

EXHIBIT



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N00°00'04"E	26.64'
L2	N89°59'56"W	27.01'
L3	N01°15'09"W	226.28'
L4	S89°30'57"W	155.01'

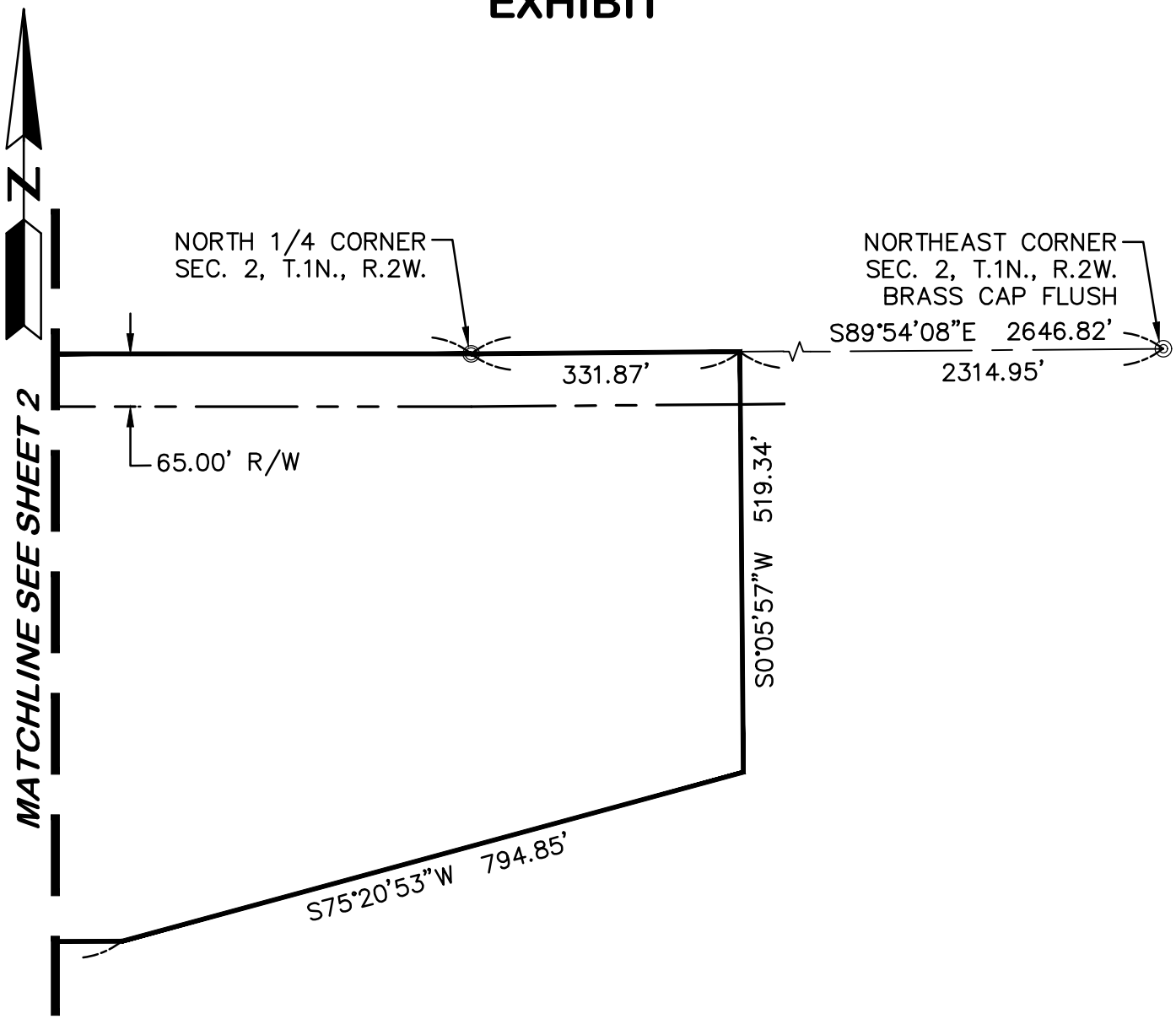


TITLE:	XB01
SCALE:	1"=200'
DATE:	10/24/22
DESC:	ZONING EXHIBIT

HUNTER ENGINEERING
CIVIL AND SURVEY
10450 N. 74TH ST., SUITE 200
SCOTTSDALE, AZ 85258
T 480 991 3985
F 480 991 3986

PROJ.NO.
BAKE009 XB01

EXHIBIT





PAGE 3 OF 3

TITLE:	**XB01**
SCALE:	1"=200'
DATE:	10/24/22
DESC:	ZONING EXHIBIT

HUNTER
ENGINEERING | CIVIL AND SURVEY

10450 N. 74TH ST., SUITE 200
SCOTTSDALE, AZ 85258
T 480 991 3985
F 480 991 3986

PROJ.NO.
BAKE009 XB01

ORDINANCE NO. 2023-1578

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 47.09 ACRES OF PROPERTY LOCATED AT THE SOUTHEAST CORNER OF CITRUS ROAD AND MCDOWELL ROAD FROM C-2 (GENERAL COMMERCIAL) AND AGRICULTURAL (AG) TO THE PLANNED AREA DEVELOPMENT (PAD) ZONING DISTRICT WITH AN UNDERLYING ZONING DISTRICT OF I-1 (LIGHT INDUSTRIAL) WITH PLANNED AREA DEVELOPMENT (PAD) OVERLAY; 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 47.09 acres and is located at the southeast corner of Citrus Road and McDowell Road and is known as SEC Citrus and McDowell as more particularly described in that certain document titled “Zoning Exhibit Legal Description,” which document was declared public record by Resolution No. 2023-2331 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 located just south of the McDowell Road and the Arizona State Land Department and the Perryville Correctional Facility; and

WHEREAS, the Property is located adjacent to the Interstate-10 (Papago Freeway) which lies along the southern boundary of the property; and

WHEREAS, the property is located adjacent to the Arizona State Route 303 Loop (Bob Stump Memorial Parkway); and

WHEREAS, on February 24, 1982, the City Council adopted Ordinance No. 82-145 conditionally annexing the Property into the City and rezoning it to the AG (Agricultural) zoning district; and,

WHEREAS, on March 22,1999, the City Council adopted Ordinance No. 99-645 conditionally rezoning approximately 60 acres of property to the C-2 (General Commercial) zoning district for the development of the Goodyear Marketplace (the “Goodyear Marketplace Zoning”); and

WHEREAS, approximately 44.20 acres of the Property was included within the Goodyear Marketplace Zoning and was conditionally zoned C-2 (General Commercial) zoning district and the remaining approximately 2.88 acres of the Property remained zoned the AG (Agricultural) zoning district; and,

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

WHEREAS, this request intends to replace the commercial uses on this property with I-1 (Light Industrial) subject to modified Planned Area Development (PAD) Overlay as established with this Ordinance; and,

WHEREAS, the rezoning will permit the Property to be developed with Light Industrial uses and will adhere to the principal permitted uses, permitted accessory uses, use permit uses, special uses and development regulations as established in the city of Goodyear Zoning Ordinance for I-1 (Light Industrial) zoning districts except where modified by this PAD Overlay; and

WHEREAS, the applicant desires to have the ability to develop a convenience use gas station and car wash on the property; and

WHEREAS, the applicant desires to have electric vehicle charging for trucks and automobiles as well as associated accessory buildings for lounging and waiting on the property; and

WHEREAS, to ensure that the I-1 (Light Industrial) zoning with stipulations will not impact residential properties and view sheds to adjacent to Interstate-10 within a Business and Commerce land use designation of the city, a PAD Overlay has been established to provide for additional design standards and guidelines; 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 an industrial development; and

WHEREAS, an alternative notification process was used for this rezoning. A formal citizen review meeting was not held, but notice providing information on the rezone was mailed to the owners of property within 500 feet of the subject property and other stakeholders on July 21, 2023; and

WHEREAS, public notice that this rezoning request would be considered and reviewed at a public hearing to be held before the Planning and Zoning Commission on September 13, 2023 appeared in the Arizona Republic Southwest Valley Edition August 25, 2023; postcards were mailed to adjoining owners on August 16, 2023; and signs were updated on the site to advertise the public hearing on August 29, 2023; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on September 13, 2023, and at that meeting the Commission voted (5-0) to recommend approval of the proposed amendment; 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 25, 2023 appeared in the Arizona Republic Southwest Valley Edition August 25, 2023; postcards were mailed to adjoining owners on August 16, 2023; and a sign was posted on the site on August 29, 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.

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. 2023-1578 applies to approximately 47.09 acres located at the southeast corner of N. Citrus Road and W. McDowell Road and legally described in that certain document titled “Zoning Exhibit Legal Description – SEC Citrus and McDowell”, declared a Public Record by Resolution No. 2023-2331, 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 WITH PLANNED AREA DEVELOPMENT OVERLAY

That certain property legally in that certain document titled "Zoning Exhibit Legal Description – SEC Citrus and McDowell", declared a Public Record by Resolution No. 2023-2331, and which is referred to and made a part hereof as if fully set forth in this Ordinance (the "Property") is conditionally rezoned from the C-2 (General Commercial) and AG (Agricultural) zoning districts to the Planned Area Development (PAD) Zoning District with an underlying zoning district of the I-1 (Light Industrial) zoning district with the following PAD Overlay. The Property shall be developed in accordance with the permitted uses and development standards applicable in the I-1 (Light Industrial) zoning district except as follows:

1. The following shall be conditionally permitted uses and accessory uses and shall be developed in accordance with the Industrial District Standards applicable to the I-1 (Light Industrial) except as otherwise provided in this Ordinance 2023- 1578:
    a. A gas station with a convenience store (a "Gas Station Convenience Use" shall be a permitted use subject to satisfaction of all of the additional following:
        i. Only one Gas Station Convenience Use is permitted within the Property; and
        ii. If a Gas Station Convenience Use is developed on the Property, a decorative shade structure with seating shall be constructed adjacent to the hard corner of Citrus Road and McDowell Road; and,
        iii. The Gas Station Convenience Use shall be developed in accordance with City of Goodyear Design Guidelines Chapter 4 (Commercial and Mixed Use Development)
        iv. The Gas Station Convenience Use shall comply with the requirements of Article 10-12 of the Goodyear Zoning Ordinance; and,

    b. Car washes are not permitted except as follows, a car wash shall be considered a conditionally permitted accessory use to the Gas Station Convenience Use subject to satisfaction of the following:
        i. A Car wash is allowed only as an accessory to the one permitted Gas Station Convenience Use; and,
        ii. If a car wash is constructed in a stand-alone building, the car wash shall not be located within 300 feet of W. McDowell Road; and,
        iii. The noise generated from the operation of the car wash shall not exceed 74.1dB from the footprint of the car wash facilities. For purposes of this stipulation footprint means the external boundaries of each car wash facility as determined by the Zoning Administrator or designee. Prior to the issuance of a Temporary Certificate of Occupancy that will allow for the operation of the car

wash or a permanent Certificate of Occupancy the property owner or operator of the car wash shall submit a noise study/test that demonstrates that the noise generated by the operation of the car wash does not exceed the noise limits set forth herein. The property owner or operator of the car wash shall make all modifications to its equipment and/or to the site as needed to ensure that the noise generated from the operation of the car wash does not exceed 74.1dB as measured from the footprint of the car wash facilities; and

iv. A car wash shall be developed in accordance with City of Goodyear Design Guidelines Chapter 4 (Commercial and Mixed Use Development); and,

c. Electric Vehicle Charging Facilities for charging trucks and automobiles shall be considered a principally permitted use. Electrical cabinets and mechanical equipment associated with the development of such facilities shall be fully screened; and,

d. Buildings for lounging and waiting for persons using Electric Vehicle Charging Facilities shall be a permitted accessory use to a permitted Electric Vehicle Charging Facility. Such accessory buildings shall not include facilities for overnight stays; and,

2. No cross-dock warehousing (i.e. warehouses with dock doors for loading and unloading of stored goods) and no cross-dock transfer facilities (i.e. facilities that provide for the transfer of goods from incoming vehicles to outbound vehicles with little or no storage) is permitted on the Property; and,

3. Except as provided herein, no more than four (4) roll-up doors and/or service and wash bay doors shall be permitted to face Interstate-10 (Papago Freeway) and no more than (4) roll-up doors and/or service and wash bay doors shall be permitted to face W. McDowell Road. The number of roll-up doors and/or service and wash bay doors permitted herein may be increased by no more than 50% if additional screening measures are to be implemented and the Zoning Administrator or his/her designee determines that the additional screening measures prevents or substantially limits the visibility of the roll-up doors and/or service and wash bay doors from being seen from the property south of the Property (Interstate-10 (Papago Freeway)) and from W. McDowell Road; and,

4. Except as provided above, roll-up doors and/or service and wash bay doors shall be oriented to face east and west and shall be oriented in a manner so that roll-up doors and/or service and wash bay doors do not face N. Citrus Road. Notwithstanding the foregoing, buildings may be constructed with roll-up doors and/or service and wash bay doors that face N. Citrus Road provided another building within the Property blocks the roll-up doors and/or service and wash bay doors from being visible from N. Citrus Road; and

5. The western most industrial buildings shall provide direct pedestrian connections to N. Citrus Road; and,

6. A thirty-foot (30') landscape buffer shall be constructed along the southern boundary of the Property. The buffer shall include earthen berms with a maximum height of six feet (6') and a maximum slope of 3:1. A minimum of one 24-inch nondeciduous box tree and one 15-gallon nondeciduous box tree shall be planted for every 30-feet of the adjacent lot line; and,

7. A minimum of one (1) shaded outdoor employee break area shall be provided for each building that exceeds 50,000 square feet; and,

8. Building color schemes, wall materials and colors and architectural elements shall be cohesive between the development on the entirety of the Property; and,

9. Buildings should include bold colors and not simply be a gray base color with shades of gray, black and white but rather a neutral desert base color with additional bolder accent colors to add vibrancy.

SECTION 4. CONDITIONS OF REZONING

The rezoning of the Property is subject to the following conditions of approval ("Stipulations"):

1. 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, grading and drainage, lighting, infrastructure, parking, access and circulation; and,

2. 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 permit for work within the Property, whichever is earlier; and,

3. Prior to the approval of any final plat, subdividing all or part of the Property, the approval of any site plan for development within the Property and/or the issuance of any permit for work within the Property, Owner shall provide the city with either (1) evidence that the Arizona Corporation Commission has approved the contiguous extension of EPCOR's Certificate of Convenience and Necessity (CC&N) to provide water services within the applicable area of the Property or (2) that EPCOR has obtained a Commission-approved Certificate of Convenience and Necessity (CC&N) authorizing EPCOR to provide water services within the applicable area of the Property; and,

4. In addition to constructing the infrastructure improvements specifically identified herein, 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,

5. 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, and all other federal, state and locals laws, ordinances, rules, regulations, standards, and policies applicable to the development of the Property; and,

6. The supporting documents submitted with the application and proposed PAD seeking to rezone the Property included site plan level of detail, including, but not limited to traffic impact analysis (TIA), preliminary sewer, water, and drainage designs, representations regarding water and sewer lines that will serve the Property, representations regarding the existence of water and sewer capacity, utility layouts, and circulation plans. None of the supporting documents, plans, reports, designs, utility layouts, analysis, representations regarding location of water and sewer lines that will serve the property or the existence of water and sewer capacity sufficient to serve the Property are approved. Owner shall be required to submit current reports, studies, plans, designs as required in all applicable development regulations, including the City of Goodyear EDS&PM 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 and all other governmental agencies whose approval is required prior to the approval of the first preliminary plat and/or site plan submitted for development within the Property, whichever is earlier; and,

7. The TIA submitted with the application for rezoning is not approved. An updated TIA that complies with all of the requirements in the EDS&PM 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 and Arizona Department of Transportation (ADOT) prior to the approval of the first preliminary plat and/or site plan submitted for development within the Property. The TIA shall identify all infrastructure required to accommodate the additional trips generated by the development of Property as rezoned, and the location of all access points from the public ROW to the Property, all of which shall comply with all applicable regulations including the requirements in the EDS&PM and requirements imposed by ADOT because of the Property's proximity to I-10. The TIA shall be approved by ADOT, and the existing traffic counts shall be updated to the current year at the time of the first preliminary plat approval or site plan approval, whichever is earlier; and,

8. Owner shall, at no cost to the city, design and construct full half-street improvements required for a Major Arterial as set forth in the EDS&PM in effect when the improvements are constructed for the south-half of the section of W. McDowell Road along or adjacent to the frontage of the Property except for the construction of ½ the median and ½ median landscaping. These improvements include, by way of example but not limitation, pavement, decel lanes, bus bays, striping, curb and gutter, sidewalks, street frontage landscape and landscape irrigation, street lighting, and signage (the "McDowell Road Improvements"). If the McDowell Road Improvements have been completed or are being completed by the City as part of a CIP project, Owner shall, remit a payment to the City for the costs the city incurred in the design and construction of the McDowell Road Improvements or the City Engineer's estimated costs of McDowell Road Improvements if not completed (the "McDowell Road Cost Recovery Payment"). If owed, the McDowell Road Cost Recovery Payment shall be paid prior to or concurrent with the recordation of the first final plat subdividing all or part of the Property or the issuance of any construction permits for any work on the Property, whichever is earlier. The McDowell Road Improvements shall be completed prior to the issuance of any Temporary Certificate of Completion, Certificate of Completion, Temporary Certificate of Occupancy, and/or Certificate of Occupancy for any structure within the Property unless modified by a written phasing plan approved by the City Engineer or his/her designee or by a development agreement approved by the City Council; and,

9. Owner shall remit to the City an in-lieu payment for one-half the cost of a full median and one-half the cost of full-median landscaping for the median required by the EDS&PM to be installed within the section of W. McDowell Road along or adjacent to the frontage of the Property. The in-lieu payment for the median and landscaping shall be based on the actual cost of the improvements if previously completed by others or based on the estimated cost of the improvements as determined by the City Engineer or designee. The in-lieu payments referred to herein shall be made prior to or concurrent with recordation of the first final plat subdividing all or part of the Property or prior to the issuance of any permits for construction work within the Property, whichever is earlier; and,

10. Owner shall, at no cost to the city, design and construct full half-street improvements required for a Minor Arterial as set forth in the EDS&PM in effect when the improvements are constructed for the east-half of the section of N. Citrus Road along or adjacent to the frontage of the Property, except for the construction of ½ the median and ½ median landscaping. These improvements include, by way of example but not limitation, pavement, decel lanes, bus bays, striping, curb and gutter, sidewalks, street frontage landscape and landscape irrigation, street lighting and signage (the "Citrus Road Improvements"). If the Citrus Road Improvements have been completed or are being completed by the City as part of a CIP project, Owner shall, remit a payment to the City for the costs the city incurred in the design and construction of the Citrus Road Improvements or the City Engineer's estimated costs of Citrus Road

Improvements if not completed (the "Citrus Road Cost Recovery Payment"). If owed, the Citrus Road Cost Recovery Payment shall be paid prior to or concurrent with the recordation of the first final plat subdividing all or part of the Property or the issuance of any construction permits for any work on the Property, whichever is earlier. The Citrus Road Improvements shall be completed prior to the issuance of any Temporary Certificate of Completion, Certificate of Completion, Temporary Certificate of Occupancy and/or Certificate of Occupancy for any structure within the Property unless modified by a written phasing plan approved by the City Engineer or his/her designee or by a development agreement approved by the City Council; and,

11. Owner shall remit to the city an in-lieu payment for one-half the cost of a full median and one-half the cost of full-median landscaping for the median required by the EDS&PM to be installed within the section of N. Citrus Road along or adjacent to the frontage of the Property. The in-lieu payment for the median and landscaping shall be based on the actual cost of the improvements if previously completed by others or based on the estimated cost of the improvements as determined by the City Engineer or designee. The in-lieu payments referred to herein shall be made prior to or concurrent with recordation of the first final plat subdividing all or part of the Property or prior to the issuance of any permits for construction work within the Property, whichever is earlier; and

12. Except as provided herein, Owner is responsible for the construction of a full traffic signal (all four legs, which may include, but is not limited to, access ramps, curbing, sidewalk, push buttons and streetlights) at the intersection of W. McDowell Road and N. Citrus Road or a payment for a proportionate share of the costs for this signal. Owner shall either (i) construct such signal if warranted at the time of development of the Property and requested by the City Engineer or his designee or (ii) pay to the City a proportionate share of the cost of such signal ("in-lieu payment") when requested by the City Engineer or designee. If Owner makes an in-lieu payment, the payment shall be based on the actual cost of the traffic signal if it has been constructed or if the payment is required before the signal is constructed it shall be based on the estimated cost of the traffic signal as determined by the City Engineer or designee. Owner's traffic signal obligations are as follows:

    a. 25% at N. Citrus Road and W. McDowell Road for the southeast corner; and

13. Owner shall, at no cost to the city, convey, in fee and free from all liens and encumbrances other than those approved by the City Engineer or his/her designee, the following right-of-way:

    a. A full 65-feet of right-of-way for the south- half of W. McDowell Road along and adjacent to the northern boundary of the Property required for the construction of the McDowell Improvements.

b. A full 55-feet of right-of-way for the eastern half of N. Citrus Road along and adjacent to the western boundary of the Property required for the construction of the Citrus Road Improvements.

c. All the right-of-way needed for the construction of the traffic signal improvements that will be located on the Property for the traffic signal to be constructed at the intersection of N. Citrus Road and W. McDowell Road; and

14. Owner shall construct, at Owner's sole cost and expense, all on-site and off-site infrastructure improvements determined by the City as being necessary to provide wastewater service to the Property, including the improvements identified in the sewer report Owner is to submit as approved by the City and those required to be constructed pursuant to the requirements in the EDS&PM. This may include, by way of example but not limitation, upgrades to the existing public 18-inch PVC gravity sewer main running along W. McDowell Road across the northern boundary of the proposed site, which increases to 24-inches downstream of the Arizona Department of Corrections Facility; and,

15. The City's obligation to provide sewer service to the Property is limited to the flow volumes reflected in the sewer report for the Property approved by the City Engineer or designee. If the flow volume of sewer exceeds the flow volume reflected in the approved sewer report the city shall be entitled to terminate service to the Property until Owner submits updated sewer report to the City that addresses: (i) the capacity of the existing infrastructure to deliver the additional wastewater flows to the 157th Avenue Water Reclamation Facility, and (ii) the availability of uncommitted capacity at the city's 157th Avenue Water Reclamation Facility to accept and treat the additional wastewater flows. The updated sewer report shall identify all additional infrastructure that needs to be constructed for the city to accept the increased flow volumes of wastewater at the 157th Avenue Water Reclamation Facility. The city shall have no obligation to provide service to accommodate the flow volumes in the updated sewer report unless there is: (i) uncommitted capacity at the 157th Avenue Water Reclamation Facility to accept the wastewater flows reflected in the updated sewer report as approved by the City Engineer or designee; (ii) until Owner, at Owner's sole cost and expense, has completed the construction of the infrastructure identified in the updated sewer report; and (iii) Owner, has conveyed all real estate interests (lien free and free of all encumbrances unless agreed to by the City Engineer or designee), required for the construction of such infrastructure; and

16. 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; and

17. Owner shall dedicate, at no cost to the City, all rights-of-way (ROW) 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 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 for 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 the recordation of the first final plat subdividing all or part of the Property or the issuance of any construction permit for work within the Property, whichever is earlier; and,

18. 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,

19. No final plat shall be recorded, no site plans approved, 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, site plan, and/or construction permit. All required approvals and easements shall be in a form acceptable to the City Engineer or his/her designee; and,

20. If any of the infrastructure improvements Owner is required to design and construct pursuant to the terms of this Ordinance have been constructed or is to be constructed by others, Owner shall remit a payment to the city in the amount of the actual costs incurred in the design and construction such infrastructure improvements if completed or, if not completed, the payment shall be in the amount of an engineer's estimate of the costs as approved by the Goodyear City Engineer or his/her designee. The payment requirement herein shall be paid prior to or concurrent with the recordation of a final plat triggering Owner's obligation to design and construct the infrastructure improvements or the issuance of a permit for any work within the Property, whichever is earlier.

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. 22-23," declared a public record by Resolution 2023-2331, 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: _____

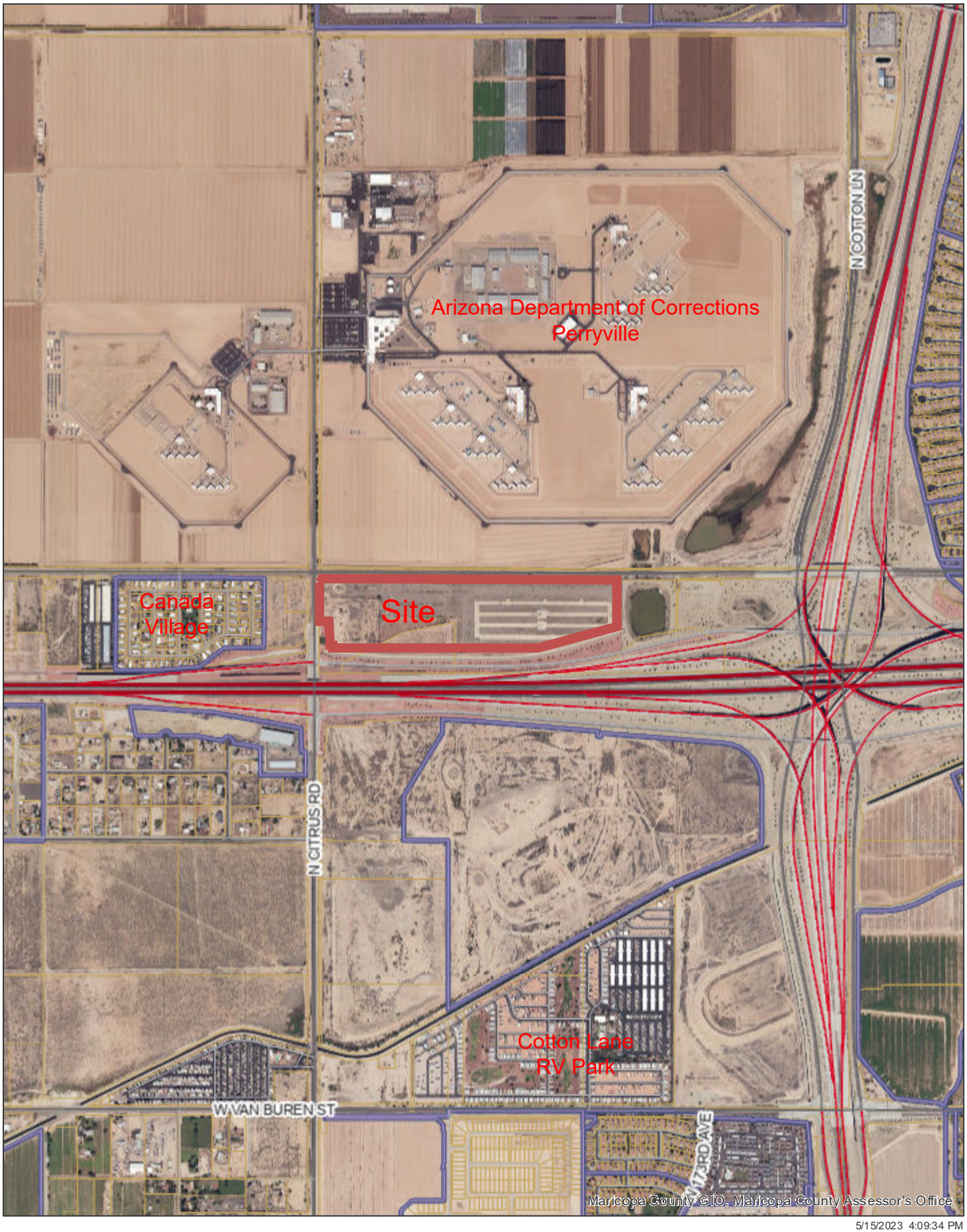
ATTEST:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
Roric Massey, City Attorney

Aerial Exhibit
22-200-00023
SEC Citrus and McDowell



5/15/2023 4:09:34 PM

Rezoning Narrative

Citrus & McDowell

1st Submittal: October 31, 2022
2nd Submittal: May 5, 2023

Prepared for:
Baker Development Corporation
2222 North Elston Ave, Suite 100
Chicago, IL 60614

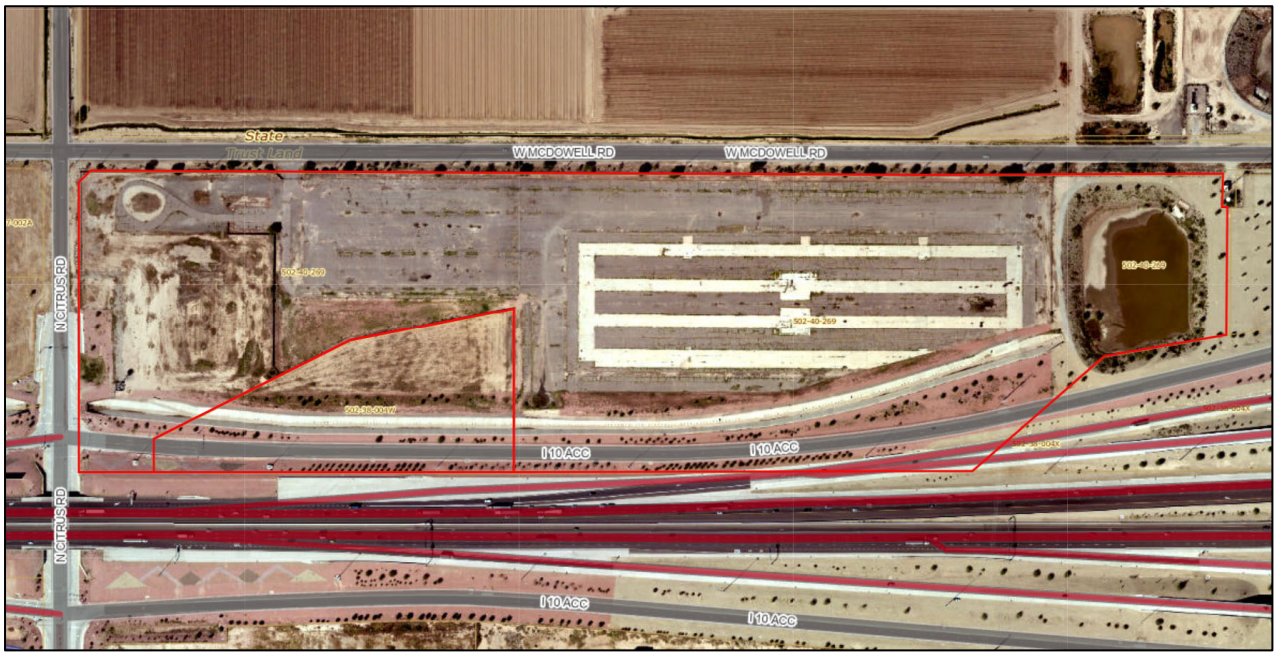
OLAM Phoenix Arizona, LLC
4021 SW 10th Street, Suite #305
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Scottsdale, Arizona 85251

REQUEST

The purpose of this request is to seek a rezoning for an approximate 47.20-gross-acre (42.29-net-acre) property located at the southeast corner of North Citrus Road and West McDowell Road (the "Site"). The Site consists of two parcels, APNs: 502-40-269 and 502-38-004W, as shown on the aerial map below. The proposed rezoning will change the Site's zoning from General Commercial ("C-2") and Agricultural ("AG") to Light Industrial Park ("I-1") with a Planned Area Development ("PAD") Overlay for all 47.20-gross-acres. The rezoning will adopt I-1 uses and, through the PAD Overlay, will also retain the uses contained in the C-2 districts. The rezoning to I-1 will allow a warehouse/distribution facility to be developed on the Site. An electric truck charging station will be an allowed use under the PAD Overlay within the I-1 District. Additionally, the PAD will allow C-2 uses such as a gas station, car wash, and convenience store to be developed on the western portion of the Site.

Context Aerial



SURROUNDING CONTEXT

The Site is currently undeveloped land and has never been developed. To the north of the Site, across McDowell Road, is the Perryville Prison Complex, zoned AG. Adjacent to the Site to the east is a parcel owned by the Arizona State of Department of Transportation, which is zoned AG and is not a part of the Site. The Interstate 10 ("I-10") Freeway runs along the southern edge of the Site. Finally, to the west, across Citrus Road, is vacant, undeveloped land zoned C-2.

DEVELOPMENT PLAN

The Site is intended to be developed with multiple uses. The westernmost portion of the Site at the hard corner may be developed with retail uses, including a gas station, convenience store, and car wash. Just east of those uses, a warehousing and distribution facility is intended to be developed. Finally, the easternmost portion of the Site is intended to contain EV charging stations for semi-trucks.

Retail Uses

As previously stated, the westernmost portion of the Site, directly on the southeast corner of Citrus and McDowell, will be developed with retail uses, which may be comprised of a gas station and carwash. The parking on the retail portion will meet City requirements when developed.

Warehousing and Distribution Uses

East of the retail portion is a proposed warehousing and distribution facility. The facility is intended to be comprised of three structures and associated parking. Each structure will be approximately 115,200 square feet, have a maximum height of 50', and will contain a truck dock. Parking for the warehousing and distribution portion of the Site will include the required number of standard and ADA parking stalls.

EV Charging Uses

The eastern portion of the Site is intended to consist of an EV charging facility for semi-trucks. The Site is proposed to contain a maximum of approximately 79 EV charging stalls and 8 additional parking stalls. The northeast corner of the Site is intended to be developed with a lounge, where truck drivers may relax while they wait for their vehicles to charge. The lounge will not offer any lodging or overnight accommodations.

INFRASTRUCTURE

As required, conceptual water, drainage, and sewer memoranda have been prepared and submitted with this application. More detailed analyses will be prepared as the project moves forward.

The Site is located at the southeast corner of North Citrus Road and West McDowell Road. More specifically, it is located within the north half of Section 2, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian. The Site is bounded by the I-10 Freeway to the south, Loop 303 to the east, N. Citrus Road to the west, and McDowell Road to the north.

Half street offsite improvements will be required along the adjacent portions of Citrus Road and McDowell Road frontage. This includes new driveways, deceleration lanes, AC pavement, curb

and gutter, sidewalk, and landscaping. The on-site improvements will be contained within the Site. The project will be phased. The phasing will be determined at the time of final site plan submittal. At this time, the design is conceptual and may change as the project progresses.

Public Street Design

Public street types are determined by the Transportation Master plan and shall confirm to the *City of Goodyear Engineering Design Standards and Policies Manual* (EDS&PM) and standard street details. McDowell Road is classified as a Major Arterial, with an ultimate overall ROW of 130-feet, plus a 10-foot PUE along the north and south side of McDowell Road. Citrus Road is classified as a Minor Arterial, with an ultimate overall ROW of 110-feet, plus a 10-foot PUE along the east and west side of Citrus Road.

Water Design

Currently the site is within the City of Goodyear water service area, however no existing Goodyear water services are available adjacent to the site. Based on this hardship to serve the site with Goodyear water services the project will file a Certificate of Convenience and Necessity (CC&N) to transfer the site to the EPCOR service area and provide water and fire service to this site via EPCOR Utilities. The City of Goodyear and EPCOR Utilities support this request to transfer service to EPCOR.

There is an existing EPCOR 8-inch waterline along the site frontage within McDowell Road. This water line will provide service to the site for domestic, fire and irrigation services. All proposed water line improvements will follow EPCOR Utilities standards and require EPCOR approvals prior to construction.

Sewer Design

The site will be served by an existing City of Goodyear 18-inch sewer line located within McDowell Road along the northern perimeter of the site. Each of the proposed parcels will have their own independent sewer service. The onsite sewer will branch off as needed to serve the multiple buildings within the site. Onsite sewer sizes will range from 6" up to 8" to handle the proposed peak flows. As the project progresses and the site plan/building uses become finalized, a more detailed analysis will be prepared. The project will be designed to follow the City of Goodyear EDS&PM.

This site is served by the Goodyear Water Reclamation Facility. This treatment facility, located at 157th Avenue just north of the BID Canal, has a current treatment capacity of 4.0 MGD with a current expansion project to increase the capacity to 6.0 MGD. As stated in the 2016 Integrated Water Master Plan, the 2014 flows to this reclamation facility were 3.3 MGD.

Drainage Design

All stormwater flows generated from within the site will be collected using an on-site storm drain system with grated inlets and conveyed into proposed on-site retention basins. The basins will be a combination of above ground retention basins and underground retention storage tanks. The offsite flows from the N. Citrus Road and McDowell Road half street improvements will be

collected and conveyed through the on-site storm drain system into the proposed on-site basins. Stormwater disposal will be provided by drywells. The project will be designed to retain the full 100-year, 6-hour storm generated from the development, per the City of Goodyear EDS&PM.

GENERAL PLAN

The Goodyear 2025 General Plan was adopted in 2014 with a vision of continuing to develop the city as a *desirable place for all to live, work, visit, and play by fostering a sustainable community with diverse destinations connected throughout the City* (Goodyear 2025 General Plan, Pg. 4). The Site's Business & Commerce designation allows for uses including *business parks, offices, warehouses, and other light industrial uses that are also appropriate* (Goodyear 2025 General Plan, Pg. 124). This proposal is consistent with the vision and intent of the City of Goodyear General Plan designation of Business & Commerce and will create a desirable place for residents and visitors of Goodyear. This proposal promotes the achievement of the overall vision, goals and policies outlined in the General Plan.

REZONING CRITERIA

The Zoning Ordinance identifies specific criteria that guide rezoning requests to respond appropriately to the surrounding context of the Site, address demand for the types of uses proposed, and provide consistency with long-range planning goals. This proposal meets and exceeds those criteria as outlined below.

a. Consistency with the goals, objectives, policies and future land use map of City's General Plan; consideration of current market factors, demographics, infrastructure, traffic, and environmental issues; and if conditions have changed significantly since the Plan was adopted;

Response: This proposal is consistent with the long-range planning goals and policies outlined in the General Plan. The proposed uses provide a much-needed employment and service use in the area, and will bring quality jobs to serve residents.

b. Suitability of the subject property's physical and natural features for the uses permitted under the proposed zoning district;

Response: This Site is generally flat with no physical or natural features that would hinder the development of the proposed project.

c. Compatibility of all potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of such things as land suitability, environmental impacts, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential impact on property values;

Response: The Site is currently zoned C-2 and AG and rezoning the entire Site to I-1, while retaining C-2 uses on the western portion, will allow for consistent and compatible zoning. This proposal has been thoughtfully planned to respect the scale of the existing and planned land uses with focus on fitting the context of its surroundings. The proposed use has been anticipated by the General Plan.

Additionally, this project is located within the "Territory in the Vicinity of Military Airport" delineation on the City of Goodyear/Luke Air Force Base Notification Map. The Site is not within the Luke Air Force Base Noise Contours and the height of the project will not impact Luke Air Force Base's overflight patterns. The Site is also in close proximity to the Phoenix-Goodyear Airport and the applicant will comply with standards imposed by the airport.

d. Proposed zoning district's consistency with other land uses within the immediate area and whether uses allowed under proposed zoning district would be better suited to the subject property than the uses allowed under current zoning;

Response: The Site is undeveloped and has never been developed. The Site is zoned both C-2 and AG currently. The Site is located on two arterial roadways and is backed by the I-10 Freeway. Given the location and the existing zoning on the Site, this is a prime property for commercial and industrial facilities. The proposed high-quality development will serve as an asset to the community and will not be materially detrimental to persons residing or working in the vicinity, to the neighborhood, or to the public welfare. The proposal will not produce nuisances to the surrounding neighborhood. The closest residential is to the west of the Site and will be buffered from the Site by Citrus Road. Additionally, residents will be served by the retail uses and by the creation of employment opportunities attributed to the Site.

e. Demand for the types of uses permitted in the proposed zoning district in relation to amount of land currently zoned and available to accommodate the demand;

Response: The proposed use has been anticipated by the General Plan. This proposal is consistent with the long-range planning goals and policies outlined in the General Plan as the Business & Commerce land use designation promotes commercial and light industrial uses.

f. Demands for public services that will be generated by the uses permitted in the proposed zoning district and requirements for meeting such demands in terms of public infrastructure and facilities and other capital equipment, such as water supplies, water treatment, storage, and distribution facilities, wastewater treatment, recharge and distribution facilities, streets, bridges, schools and emergency services facilities and equipment;

Response: This proposal appropriately responds to the available public services and infrastructure in the surrounding vicinity. Designated as Business & Commerce by the Goodyear 2025 General Plan, this Site location has been anticipated for a range of employment and industrial uses. The Site is located within the City of Goodyear water and sewer service area. Access points to the Site will be located off both Citrus Road and McDowell Road and will feed into internalized private drives. No adverse impact to public infrastructure is anticipated.

g. Potential adverse fiscal impacts that will result from providing services to areas not in proximity to where existing public services are provided;

Response: None. There is no projected increase in demand for public infrastructure and services available to the Site that exceeds capacity as a result of this development. If a demand arises, services required to serve the proposed development will be constructed by the developer.

h. General public's concerns;

Response: The General Public's input will be identified through the public review process. Given that this request is consistent with the existing and approved uses in the vicinity of the Site and the land use was anticipated by the City's General Plan, it is not anticipated that there will be significant public concerns as a result of the proposal. Nonetheless, the development team understands the importance of neighborhood involvement and will diligently seek input through the outreach process.

i. Whether the amendment promotes orderly growth and development; and

Response: This proposal presents a land use that will convert an underutilized Site with unsuitable zoning entitlements to meet demand. The proposal promotes the orderly growth and development of the area by adding commercial and industrial uses appropriate to their context.

j. Any other factors related to the impact of the amendment on the general health, safety and welfare of the citizens of the City and the general public.

Response: This proposal converts an underutilized Site into needed commercial and industrial uses that will create quality jobs and services for Goodyear residents and visitors and will have an overall positive impact on the City of Goodyear. Given the nature of the surrounding agricultural uses, the planned commercial uses, and the consistency with the General Plan, the Site is an ideal location for commercial and industrial uses.

SEC Citrus and McDowell

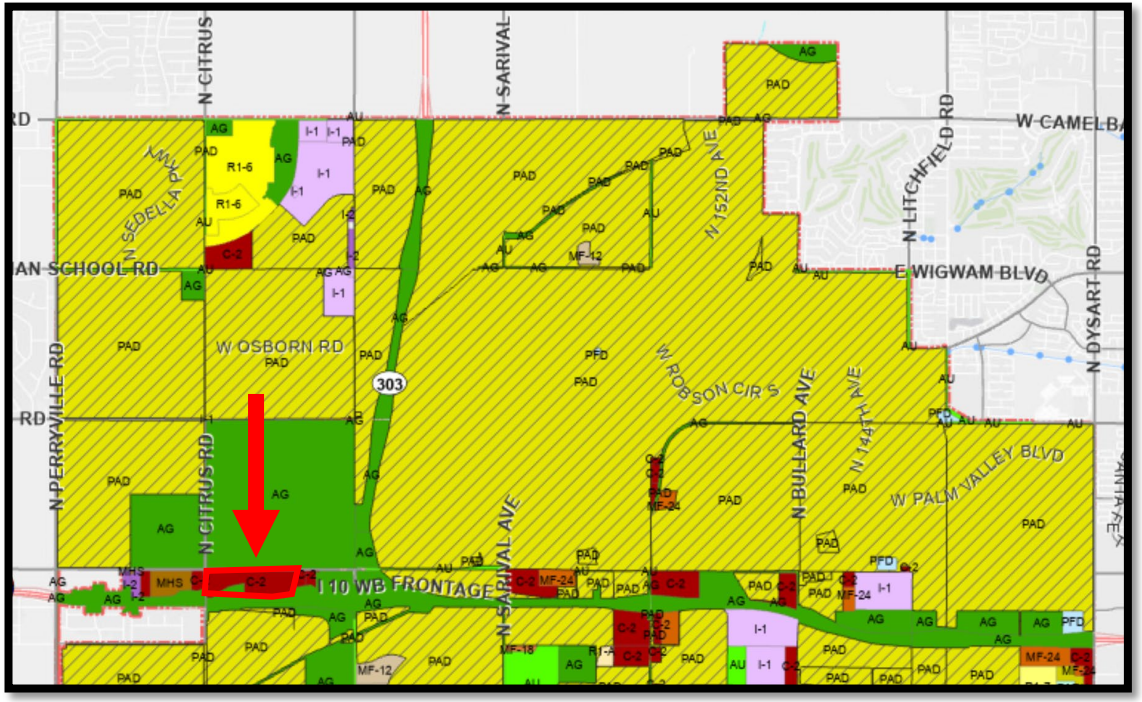
City Council Meeting
September 25, 2023



Location

NORTH GOODYEAR

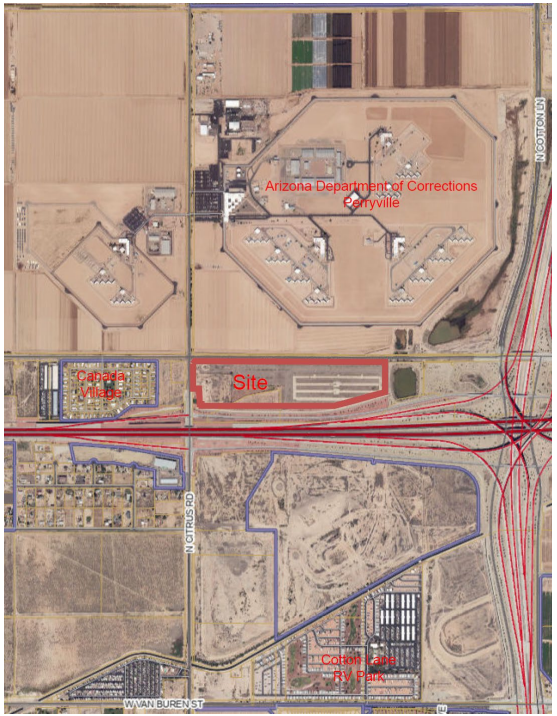
- Approximately 47.07 Acres
- Currently zoned
  - C-2 (General Commercial)
  - AG (Agricultural)



Specific Location

ZOOMED IN

- SEC Citrus Road and McDowell Road
  - North
    - McDowell Road and Perryville Corrections
  - South
    - Interstate-10 and Innovation Centre
  - East
    - Vacant ADOT Land and Freeway Interchange
  - West
    - Vacant Virtua Citrus zoned C-2 PAD Overlay



Zoning History

FROM 1982 TO 1999

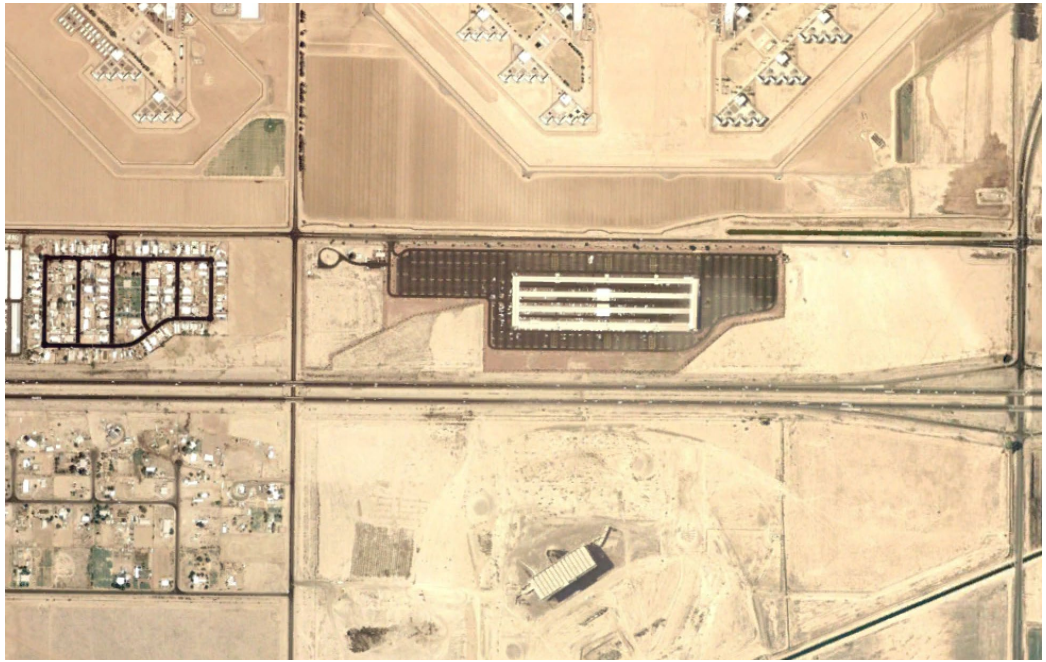


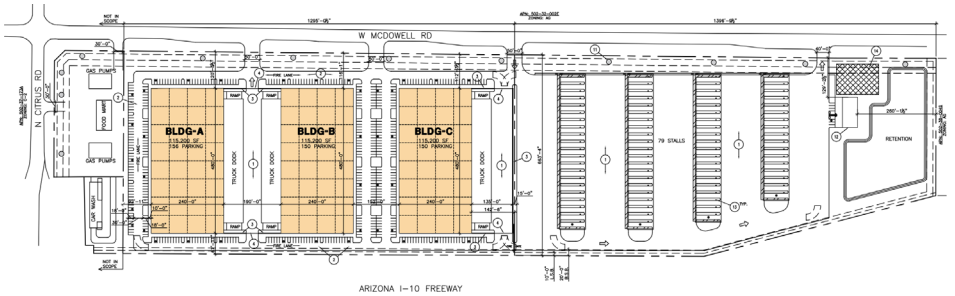


*Image Courtesy City of Mesa

SEC Citrus and McDowell

PAD OVERLAY PROPOSAL

- Gas Station
- Car Wash
- Electric Vehicle Charging
- Design Guideline Enhancements
  - Dock Doors







*Applicant Provided Renderings

Recommendation

APPROVE SUBJECT TO STIPULATIONS

- Approve Rezone:
  - FROM: C-2 (General Commercial) and AG (Agriculture)
  - TO: I-1 (Light Industrial)
    - Additional Uses
    - Design Guideline Enhancements
      - Dock Doors


CITY OF
Goodyear

SEC Citrus Rd. & McDowell Rd.

Planning & Zoning Hearing | September 13, 2023

Case Number: 22-20000023

ABOUT BAKER DEVELOPMENT CORPORATION

- Founded 40 years ago
- Award-winning high-rise residential, big-box retail, office, ground up and adaptive/reuse, warehouse/ distribution, and industrial developments
- Currently 6 projects and 3 million square feet are in planning and development throughout the Valley





ABOUT TERAWATT INFRASTRUCTURE

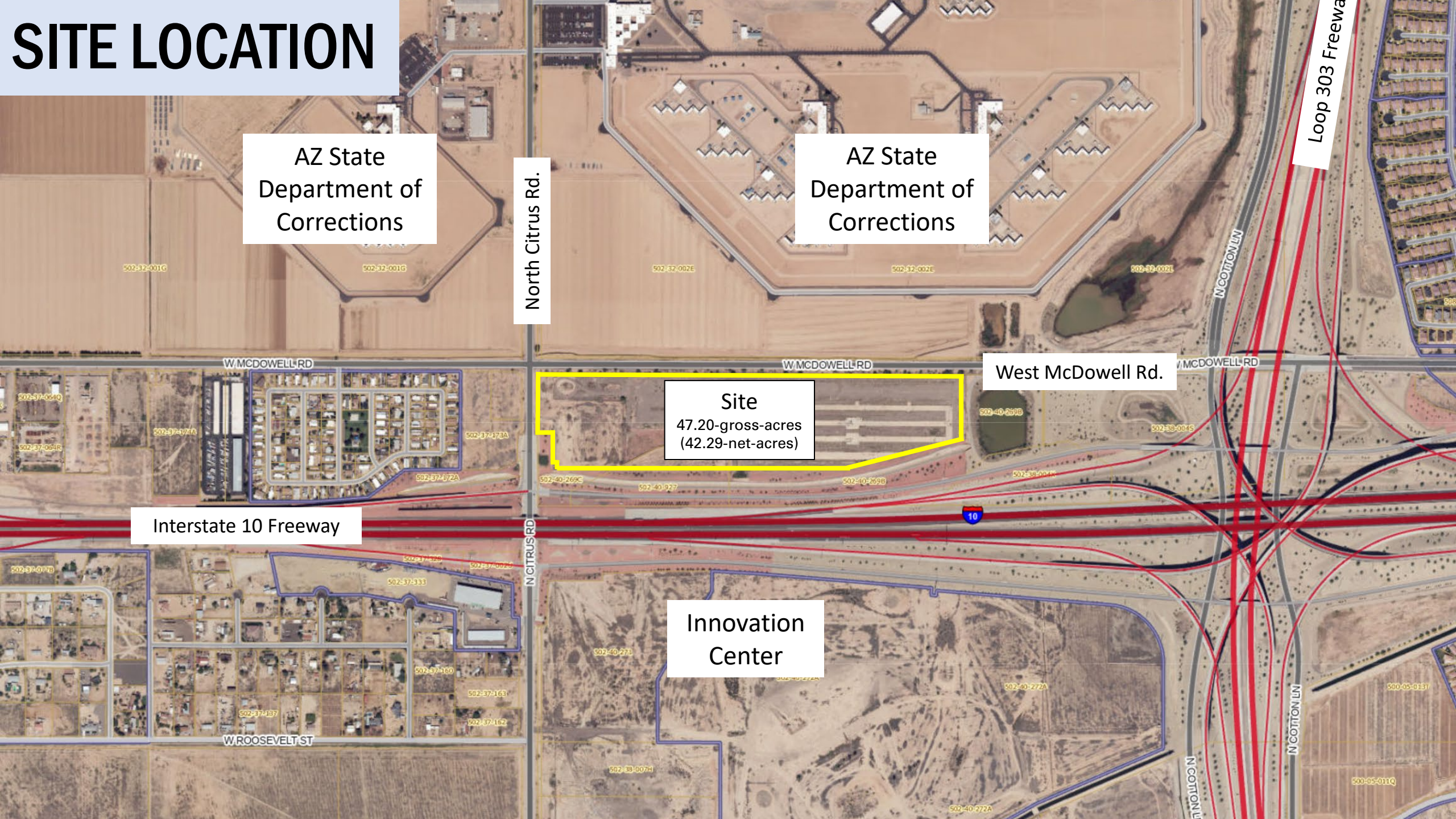
- Real estate owner and developer of high-powered electric vehicle (EV) charging infrastructure and services

- Revolutionizing the EV industry by providing charging solutions for light, medium, and heavy-duty fleets

- Bringing the first EV charging hub for commercial fleet vehicles to Goodyear



SITE LOCATION



REQUEST

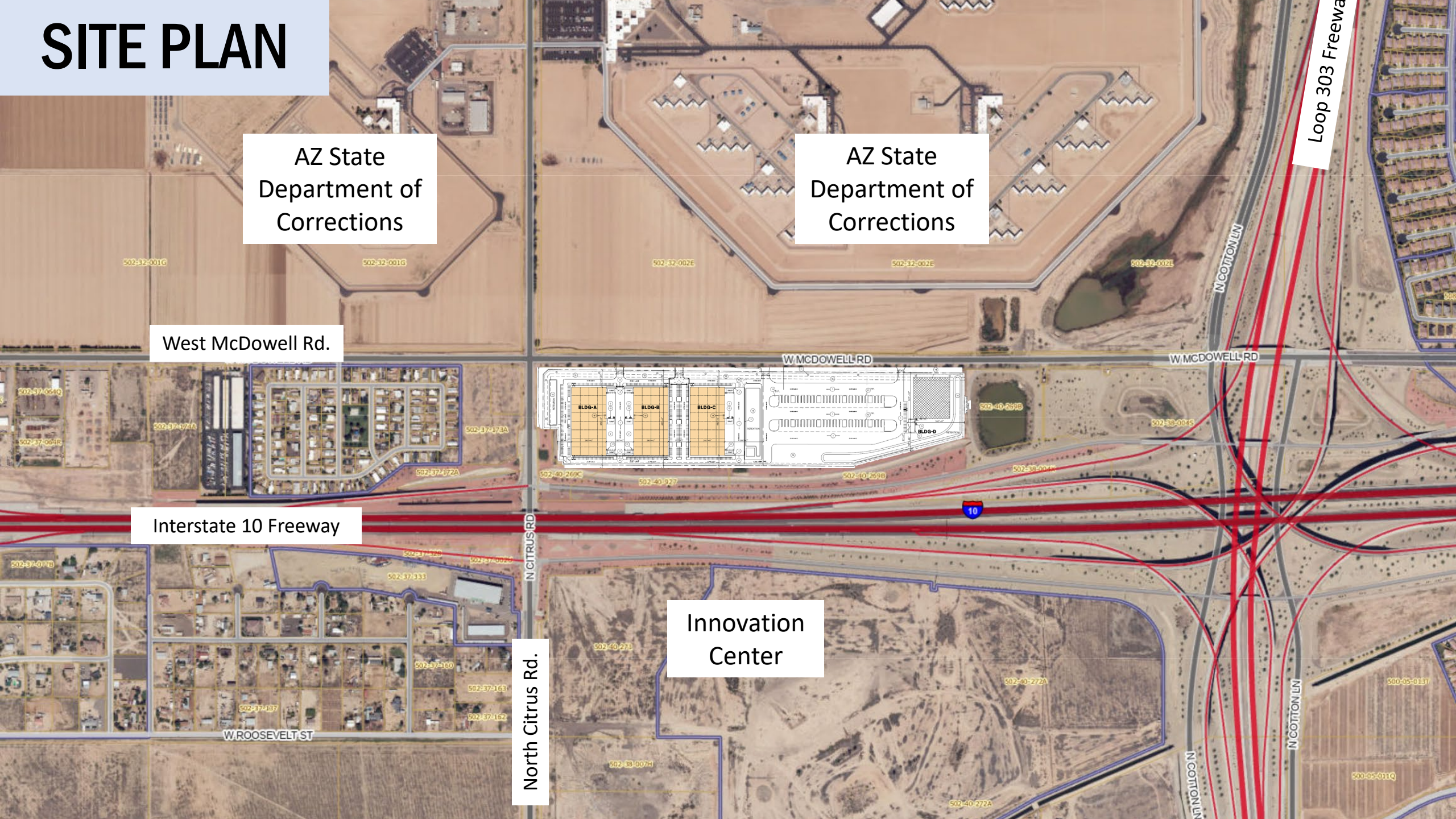
- Rezoning **from** General Commercial **(C-2)** and Agricultural Urban **(AU) to** Light Industrial Park with a Planned Area Development Overlay (**I-1 PAD**).
  - Electric Vehicle Charging Facilities are a permitted use with waiting areas/lounges permitted as an accessory use (**no overnight stays**)
  - Car wash and gas station are permitted with conditional use permits

CONSISTENT WITH THE GENERAL PLAN

- Business & Commerce designation allows for uses including:
  - Business parks
  - Offices
  - Warehouses
  - Other light industrial uses that are also appropriate



SITE PLAN


AZ State Department of Corrections
AZ State Department of Corrections
West McDowell Rd.
W MCDOWELL RD
W MCDOWELL RD
Loop 303 Freeway
N COTTON LN
BLDG-A
BLDG-B
BLDG-C
BLDG-D
Interstate 10 Freeway
10
N CITRUS RD
North Citrus Rd.
Innovation Center
W ROOSEVELT ST
N COTTON LN
N COTTON LN

ARCHITECTURAL DETAIL







Located at 143rd Avenue & Van Buren

THANK YOU!