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Affidavit N
Official Records of
Maricopa County Recorder
Helen Purcell

Electronic Recording

Ordinance 08-1144

Goodyear City Clerk's Office
190 N. Litchfield Rd
Goodyear, AZ 85338
623-882-7830

ORDINANCE 08-1144

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA PROVIDING FOR CONDITIONAL REZONING OF 157.23 ACRES OF PROPERTY FROM THE AGRICULTURAL URBAN (AU) ZONING DISTRICT TO THE FINAL PLANNED AREA DEVELOPMENT (PAD) ZONING DISTRICT FOR A RESIDENTIAL AND COMMERCIAL DEVELOPMENT KNOWN AS THE ROSE GARDENS LOCATED AT THE SOUTHEAST CORNER OF CITRUS ROAD AND VAN BUREN STREET; ADOPTING SUPPLEMENTARY ZONING MAP NO. 07-024 TO PROVIDE FOR THE CHANGE IN ZONING; PROVIDING SEPARABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Goodyear Planning and Zoning Commission held a public hearing on Zoning Case 08-200-00024 on October 15, 2008, in the manner prescribed by law, for the purpose of considering the rezoning of a parcel of land containing 157.23 from the Agricultural Urban (AU) zoning district to the Final Planned Area Development (PAD) zoning district;

WHEREAS, due and proper notice of such public hearings before the City of Goodyear Planning and Zoning Commission was given in the time, form, substance and manner provided by law, including publication of such notices in THE WEST VALLEY VIEW on September 31, 2008; and,

WHEREAS, the City of Goodyear Planning and Zoning Commission has recommended to the Mayor and Council of the City of Goodyear, Arizona, that it conditionally rezone the property as aforesaid; and,

WHEREAS, the Mayor and Council of the City of Goodyear, Arizona desire to accept the recommendation of the Planning and Zoning Commission, and conditionally rezone the property from the Agricultural Urban (AU) zoning district to the Final Planned Area Development (PAD) zoning district.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Goodyear, Arizona that:

SECTION I. Rezoning. A parcel of land of 157.23 acres, as described in Exhibit A and attached hereto, is hereby conditionally rezoned from the Agricultural Urban (AU) Zoning District to the Final Planned Area Development (PAD) zoning district as provided in the Zoning Code.

SECTION II. Conditions. The rezoning of 157.23 acres herein provided for is subject to the following conditions:

1. Compliance with the Planned Area Development (PAD) zoning district criteria, the City of Goodyear's Engineering Design Standards for public works construction, and Maricopa County Association of Governments standards for public works construction, except as modified by the City Engineer;
2. Compliance with the development concepts and standards contained in the Rose Gardens Final PAD Development Plan dated September 17, 2008;
3. A development agreement between the owner/developer of the Rose Gardens shall be approved prior to, or concurrent with, City Council approval of the Final PAD;
4. If the developer fails to comply with any of the stipulations contained in the Ordinance that rezones the property, or fails to comply with any other City codes and regulations in the development of Rose Gardens, then the Community Development Director, or his designee, may suspend issuance of building or construction permits for the Rose Gardens project until the Developer cures the item in default;
5. The developer shall apply to the Department of Water Resources (DWR) for the extinguishment of the Type 1 Rights appurtenant to Rose Gardens and request that any assured water supply credits issued by DWR as a result of any such extinguishment be credited to the City of Goodyear. Said extinguishment shall occur prior to recordation of any final plat for the development;
6. Minor amendments to the PAD may be administratively approved by the Community Development Director, or his designee. A minor amendment is defined as a change not permitting an increase in the number of total dwelling units in excess of 432, nor permitting arterial street intersections at locations other than presented in the PAD, nor changes that permit uses, densities, and intensities not included in the PAD, nor the relocation of intended uses to the proposed land use concept and configuration;
7. The maximum number of residential dwelling units permitted within the rezoned area shall not exceed 432;
8. The underground placement of all permanent utilities, excluding power lines 69 kv or larger, within the proposed development and abutting the development's portion of perimeter arterial streets per phase prior to issuance of the first certificate of occupancy for that phase of development;
9. The developer shall construct off-site improvements in accordance with a phasing plan approved by the City Engineer;
10. The developer shall comply with the approved West Goodyear Planning Area Master Water, Sewer, and Water Reports;
11. The developer shall control dust as required by the State, City, and the County Bureau of Air Pollution on temporary access ways during construction;

12. The developer shall keep the property weed and debris free;
13. The developer shall provide for the dedication of the following rights-of-way, in form and substance acceptable to the City Engineer, or his designee, prior to or concurrent with recordation of any final plat:
 - a. East half of Citrus Road right-of-way, 55 feet from centerline;
 - b. South half of Van Buren Street right-of-way, 65 feet from centerline;
 - c. North half of Harrison Street right-of-way, 40 feet from centerline;
14. Improvements made on all arterial, collector and local roads within and abutting Rose Gardens shall comply with the City of Goodyear's prevailing engineering design standards, except as modified by the City Engineer;
15. The development will be responsible for the half-street and half-median improvements along those portions of Van Buren Street, Citrus Road, and Harrison Street adjacent to this development including the commercial parcel. An Engineer's estimate that meets City of Goodyear requirements shall be provided to determine costs for any improvements that are not required to be constructed along with the site's development. The half-streets for Van Buren Street, Citrus Road, and Harrison Street shall be constructed with the following minimum improvements: two 12-foot travel lanes, one four-foot wide bike lane, and curb, gutter and a sidewalk adjacent to the development;
16. If the residential development portion of Rose Gardens precedes the development of the commercial parcel, then those portions of Citrus Road and Van Buren Street adjacent to the commercial parcel shall be fully improved concurrent with the improvements of said roadways adjacent to the residential development;
17. If the residential development portion of Rose Gardens precedes the development of the City's fire station and water Campus site, then the developer agrees to construct those portions of Citrus Road and Harrison Street adjacent to the City's fire station and water campus site concurrent with the improvements of said roadways adjacent to the residential development. The developer would then be subject to full reimbursement subject to the cost recovery provisions contained in the Rose Gardens Development Agreement;
18. The developer or successor shall warranty all public and private improvements constructed by the developer or successors within the City of Goodyear rights-of-way, tracts and easements for a period of not less than two (2) years from the date of acceptance by the City Engineer, or his designee;
19. The developer shall be responsible for a proportionate share (25%) of the cost for a traffic signal to be installed at the intersection of Van Buren Street and Citrus Road, pursuant to the provisions of the development agreement for Rose Gardens between Silva Farming Enterprises and the City of Goodyear;

20. The developer shall submit a current Phase I Environmental Survey designating the City of Goodyear as a named party to whom such survey is delivered and to whom such certification is made, together with any additional environmental surveys which the City Engineer deems necessary dependent upon the contents of the Phase I survey. Such survey shall cover publicly dedicated rights-of-way, easements, or other parcels of land dedicated to the public and shall be submitted with the final plat for the project. Any environmental conditions identified by the Phase I Environmental Site Assessment shall be addressed and remediated to the satisfaction of the City Engineer, or his designee, prior to approval of any final plat for the project;
21. The developer shall ensure that all on-site and off-site water lines are part of a looped system that will be connected to at least two City of Goodyear water sources at all times;
22. This development will be required to construct 24-inch off-site water lines adjacent to their property as set forth in the City approved Integrated water master plan;
23. Any modifications to existing irrigation facilities within the project site are to be coordinated with the appropriate irrigation district;
24. If the required retention basins do not drain within the time frame required, the developer shall be responsible for implementing alternative corrective measures for the duration of the project's warranty period and shall identify such alternative method or methods on the grading and drainage plans submitted to the City Engineer, or his designee, for review and approval prior to the issuance of the grading permit for the project;
25. The developer shall provide for a waiver agreement, which shall run with the land, for each initial homebuyer to sign, and shall include the following statement in the waiver agreement: "Rose Gardens 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, Luke Air Force Base and/or the Phoenix-Goodyear Airport. The owner does release and discharge the City of Goodyear and the developer from any liability for any and all claims for future damages to persons or property and complaints of any kind that may arise at any time in the future from the operation of such aircraft near and over the area;"
26. The public sales report and final plat shall include a statement that Rose Gardens is subject to attendant noise, vibrations, dust, and all other effects that may be caused by overflight and by the operation of aircraft landing at, or taking off from, Luke Air Force Base and/or the Phoenix Goodyear Airport;
27. The developer shall post signage within all subdivision sales offices identifying the location of the Luke Air Force Base Accident Potential Zones (APZs), 65 Ldn and higher noise contours, and departure corridors, as well as the Phoenix/Goodyear Airport Traffic Pattern Area and noise contours per the Goodyear General Plan 2003-2013 (Policy B-3e of Section 9.2). This display

shall include a 24-inch by 36-inch map at the main entrance of such sales facility and shall include the approximate locations of the homes or apartments being sold or leased clearly depicted. The required contents of the map shall be provided by the City of Goodyear;

28. The following information shall be disclosed in the public sales report and final plat and shall be provided in a separate acknowledgment, which shall run with the land, for each initial homebuyer to sign: Rose Gardens is in close proximity to agricultural uses and may therefore be subject to noise, dust, and odors associated with such uses;
29. Building elevations and color schemes for all homes to be constructed within Rose Gardens shall be submitted to the City for design review and approval prior to submittal of single family standard (or custom) construction plans;
30. All development on the subject property shall comply with the prevailing City of Goodyear Design Guidelines;
31. The developer shall de-emphasize the garage element of all dwelling units by using techniques such as front porches and livable areas of the home that project forward of the garage, side entry or recessed garages, or other design elements acceptable to the Community Development Director, or his designee;
32. Four-sided architecture is required for all dwelling units within the Rose Gardens PAD. Architectural details provided on the front elevation shall also be provided on the side and rear elevations of the building;
33. Dwelling units with the same elevation or color scheme within the Rose Gardens PAD shall not be placed side by side or across the street from each other, unless the elevation is fundamentally different as determined by the Community Development Director, or his designee;
34. The developer shall provide and install a front yard landscape package for each dwelling within 60 days of issuance of the certificate of occupancy for that dwelling. The CC&Rs shall contain language reflecting this requirement;
35. For conventional single family parcels no more than three two-story homes shall be permitted side by side, and three consecutive two-story homes must be followed by a minimum of two single-story homes;
36. No two-story homes shall be permitted along an arterial street unless there is a 35-foot wide landscape tract between said right-of-way and the lot line, and the final plat shall clearly identify all lots that are subject to this single-story restriction;
37. Driveways upon key lots shall be located on the opposite side of the lot from the view obstruction;
38. The developer shall establish a homeowners' association (HOA) for Rose Gardens, with said HOA owning and maintaining all open space areas, trails, and

other community amenities and maintaining all arterial and collector road rights-of-way landscaping except for arterial median landscaping. A note shall be placed on each final plat indicating HOA ownership and maintenance responsibilities of these tracts;

39. The developer shall submit a copy of the legal documents pertaining to the establishment of the HOA and any Conditions, Covenants and Restrictions (CC&Rs) associated with the proposed development for City Staff review and comment prior to approval of any final plat;
40. All lots adjacent to internal open space areas shall have rear yard view fences. Those lots that have view fences shall be required to complete their rear yard landscaping within ninety (90) days of the issuance of a certificate of occupancy for the dwelling;
41. The developer shall improve all tot lots within the project with an approved shade canopy over the play equipment;
42. The developer shall provide pedestrian scale security lighting for all trails and active recreational areas within the project;
43. The developer shall provide sports court lighting for the basketball courts in the central open space tract containing the community ramada;
44. The location of mail boxes is to be integrated within the development and their design shall utilize the same types of building materials used throughout the development;
45. The developer shall ensure that all perimeter walls viewable from public roadways have an exposed face not to exceed eight feet in height;
46. Construction plans for all open space, landscape, hardscape, entry monuments, walls and other subdivision amenity improvements described within the Rose Gardens Planned Area Development document, dated September 17, 2008, shall be submitted for review and approval at the time of final plat; and,
47. The developer shall cause the installation of two temporary signs on the planned commercial site, one sign along Citrus Road and one sign along Van Buren Street, each with a maximum copy area of 32 square feet and a maximum height of eight feet, providing notice of the future commercial development. The signs shall be installed prior to final plat approval of any residential parcel, and shall be maintained by the developer until such time as the commercial property is developed.

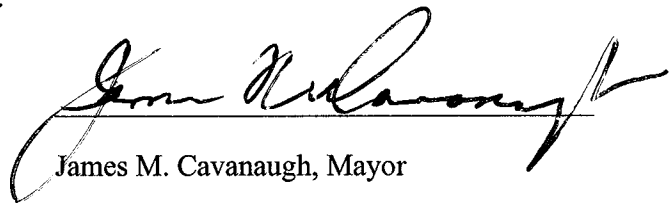
SECTION III. Amendment of Zoning Map. The Zoning Map of the City of Goodyear is herewith conditionally amended to reflect the change in districts referred to in Section I and the adoption of Supplementary Zoning Map No. 07-024, a copy of which is attached and

which shall be filed with the City in the same manner as the Zoning Map of the City of Goodyear.

SECTION IV. Separability. If any section, subsection, 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 portions thereof.

SECTION V. Effective Date. This ordinance shall become effective at the time and in the manner prescribed by law.

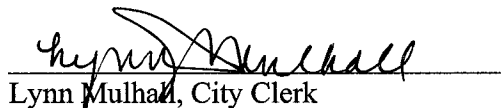
PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Arizona, this 10 day of November, 2008.



James M. Cavanaugh, Mayor

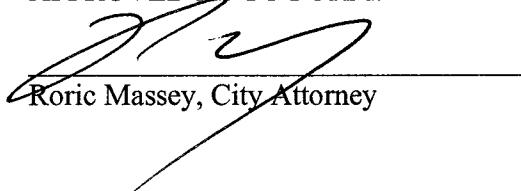
Date: 11/17/09

ATTEST:



Lynn Mulhall, City Clerk

APPROVED AS TO FORM:



Roric Massey, City Attorney

STATE OF ARIZONA)
) ss.
County of Maricopa)

Given under my hand and seal, this 17 day of November, 2008.

Byron D. Neukhoff
City Clerk



Replacement Page
Ordinance 08-1144
Official Supplementary Zoning Map
Page 10

On File at the Goodyear City Clerk's Office
190 N Litchfield Rd
Goodyear AZ 85338
623-882-7830

EXHIBIT "A"

PARCEL NO. 1:

The Northeast quarter of the Northwest quarter of Section 11, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

PARCEL NO. 2:

The Northwest quarter of the Northwest quarter of Section 11, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPTING that portion thereof described as follows:

COMMENCING at the Northwest corner of said Section 11;

Thence East along the North line of said Section 11, a distance of 520.00 feet to a point;

Thence South along a line parallel with and 520.00 feet East of the West line of said Section 11, a distance of 520.00 feet to a point;

Thence West along a line parallel with and 520.00 feet South of the North line of said Section 11, a distance of 520.00 feet to a point on the West line of said Section 11;

Thence North along the West line of said Section 11, a distance of 520.00 feet to the POINT OF BEGINNING;

EXCEPTING the North 55 feet and the West 55 feet thereof for highway and/or roadway purposes; and

EXCEPTING that portion thereof described as follows:

BEGINNING at a point South 55 feet and East 55 feet from the Northwest corner of said Section 11;

Thence East parallel with the North line of said Section 11, a distance of 30 feet;

Thence Southwest to a point 55 feet East of the West line and 85 feet South of the North line of said Section 11;

Thence North 30 feet to the POINT OF BEGINNING for highway purposes.

PARCEL NO. 3;

The East half of the Southeast quarter of the Northwest quarter of Section 11, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

PARCEL NO. 4:

That part of the Northwest quarter of the Northwest quarter of Section 11, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at the Northwest corner of said Section 11;

Thence East along the North line of said Section 11, a distance of 520.00 feet to a point;

Thence South along a line parallel with and 520.00 feet East of the West line of said Section 11, a distance of 520.00 feet to a point;

Thence West along a line parallel with and 520.00 feet South of the North line of said Section 11, a distance of 520.00 feet to a point on the West line of said Section 11;

Thence North along the West line of said Section 11, a distance of 520.00 feet to the POINT OF BEGINNING;

EXCEPTING the North 55 feet and the West 55 feet thereof for highway and/or roadway purposes; and

EXCEPTING that portion thereof described as follows:

BEGINNING at a point South 55 feet and East 55 feet from the Northwest corner of said Section 11;

Thence East parallel with the North line of said Section 11, a distance of 30 feet;

Thence Southwest to a point 55 feet East of the West line and 85 feet South of the North line of said Section 11;

Thence North 30 feet to the POINT OF BEGINNING for highway purposes.

PARCEL NO. 5:

The West half of the Southeast quarter of the Northwest quarter of Section 11, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

PARCEL NO. 6:

The Southwest quarter of the Northwest quarter of Section 11, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

END OF EXHIBIT "A"

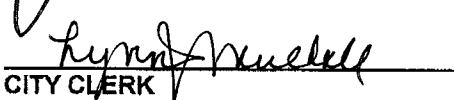
Ordinance 2008-1144

The Rose Gardens Final PAD Development Plan dated September 17, 2008, referenced in Section II, Condition 2 of Ordinance 2008-1144 is on file with the City of Goodyear City Clerk.

OFFICIAL SUPPLEMENTARY ZONING MAP NO. 07-024

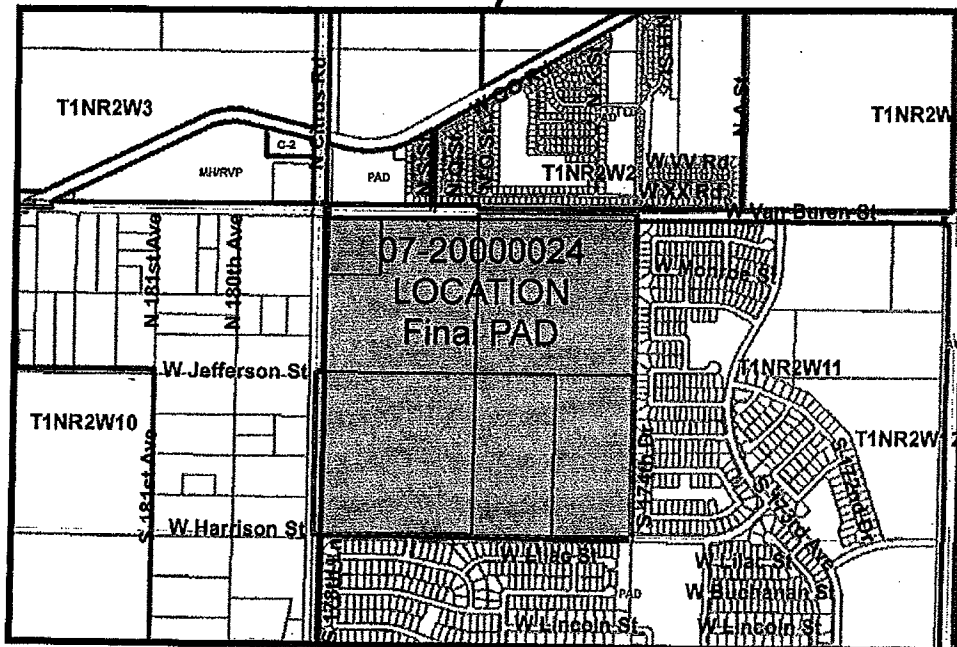
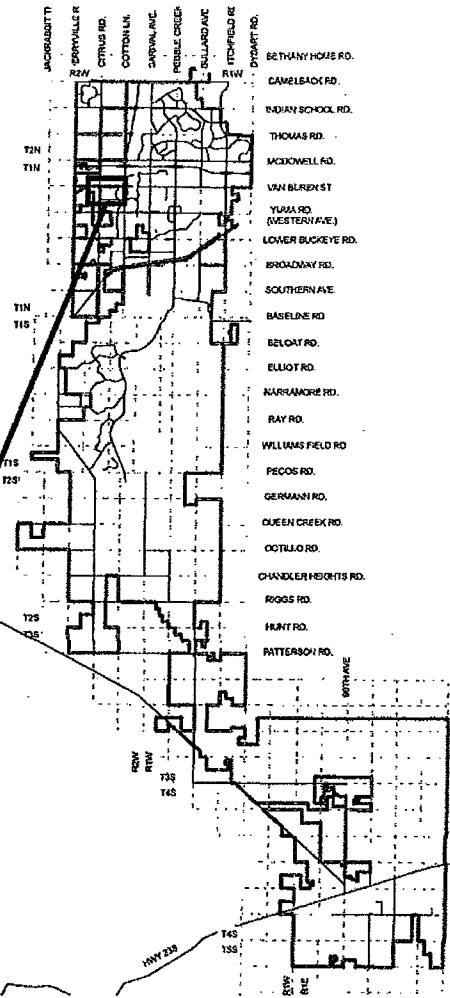
AMENDING ARTICLE 2, SECTION 1.B OF THE ZONING ORDINANCE OF THE CITY OF GOODYEAR. AMENDED BY ORDINANCE NO. 08-1144, PASSED BY THE CITY COUNCIL OF THE CITY OF GOODYEAR, ARIZONA, THIS 10 DAY OF November, 2008.


MAYOR


CITY CLERK

SUBJECT PROPERTY:

A portion of Sections 11, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian



SOURCE: CITY OF GOODYEAR G.I.S.

CITY OF GOODYEAR, AZ - REZONE CASE

EXHIBIT
A

REZONE FROM AU TO FINAL PAD

07-20000024

DATE:
Jan '08

166 CARTER

AGENDA ITEM # 8.D.
DATE: November 10, 2008
COAC NUMBER: 08-3994

**CITY OF GOODYEAR
CITY COUNCIL ACTION FORM**

SUBJECT: Ordinance No. 08-1144 to rezone property from the Agricultural Urban (AU) zoning district to the Final Planned Area Development (PAD) zoning district.

STAFF PRESENTER: Rick Williams,
Planner II

CASE NUMBER: 07-200-00024

CONTACT: Andy Moore, Earl, Curley,
and Lagarde, P.C.

RECOMMENDATION:

Adopt Ordinance No. 08-1144 providing for conditional rezoning of approximately 157.23 acres of property from the Agricultural Urban (AU) zoning district to the Final Planned Area Development (PAD) zoning district for a residential and commercial development known as Rose Gardens located at the southeast corner of Citrus Road and Van Buren Street; adopting Supplementary Zoning Map No. 07-024 to provide for the change in zoning; and providing for an effective date.

EXECUTIVE SUMMARY:

This is a request to rezone approximately 157.23 acres from Agricultural Urban (AU) zoning district to the Final Planned Area Development (PAD) zoning district for a residential and commercial development known as Rose Gardens. The development proposes a mixture of single family residences, court homes, and an 8.36-acre commercial parcel located at the southeast corner of Van Buren Street and Citrus Roads. The Rose Gardens development proposes 432 residential lots (360 single family lots and 72 court homes) on 136.3 net acres resulting in a net residential density of 3.17 units per acre. Approximately 32.4 acres (23.8% of net site acreage) of open space are proposed within the development. The proposed PAD also contains a 9.41-acre PFD parcel that is to be a future City of Goodyear water campus and fire station site.

The Planning and Zoning Commission conducted a public hearing for this rezoning request at their regular meeting held on October 15, 2008. At the meeting, the Commission recommended approval of the rezoning, subject to the recommended stipulations, by a unanimous (6-0) vote. No one from the public spoke at the meeting.

COMMUNITY BENEFIT:

This proposed Planned Area Development (PAD) provides for the orderly development and extension of basic infrastructure to 157.23 acres at the City's western boundary. The developer has agreed to make certain prepayment contributions for expanding wastewater treatment capacity as well as advancing funds for constructing and operating a fire station. Advancing funds for expanding the City's wastewater facilities will reduce the amount of funds that the City needs to borrow for installing this basic infrastructure.

CURRENT POLICY:

Article 3-5 of the City of Goodyear Zoning Ordinance provides a Planned Area Development District that can be used to accommodate, encourage and promote developments with innovative design involving residential and nonresidential land uses, which together form an attractive, harmonious unit in the community. Such a planned development may be designed as a large-scale separate entity, able to function as an individual community or neighborhood; as a small-scale project which requires flexibility because of unique circumstances or design characteristics; or as a transitional area between dissimilar land uses. The planned development, if so specified at the time of zoning approval, may include standards or criteria that differ from those regulations pertaining to other districts (including deviations from the development standards prescribed in Section 3-2-7.A) when warranted by circumstances such as, but not limited to: alternative residential lot design, innovative architectural or subdivision design features, retirement housing, in-fill development involving a small or irregularly shaped parcel, or other circumstances found by the City through the PAD approval to merit departure from the regulations pertaining to other districts. The City Council may approve a PAD upon finding that the proposal meets the intent, objectives and general requirements of the PAD district; and is in conformance with the City of Goodyear General Plan and all pertinent codes and policies.

The City has a policy that development pays its own way. This rezoning request adheres to this policy in that the developer will be paying his proportionate share of the infrastructure costs to serve the properties proposed for development in the area generally bounded by Interstate 10 on the north, MC85 on the south, Cotton Lane on the east, and Perryville Road on the west. This area is referred to as the West Goodyear Central Planning Area (WGCPA). A development agreement formalizing the costs and contributions for this project will be approved prior to, or concurrent with, the approval of the proposed rezoning.

The General Plan Land Use Map designates the subject property as Low Density Residential. This land use classification permits a density of 2 to 4 dwelling units per acre with a target density of 2 dwelling units per acre. The General Plan permits the target density to be exceeded if the development proposal includes facilities and/or amenities that support the City's desired community character and vision.

HISTORICAL INFORMATION:

On May 23, 2005, the City Council adopted resolution No. 2005-981, approving a memorandum of understanding (MOU) with 16 owners of property located in the West Goodyear Central Planning Area. The MOU addressed the funding and provision of fire service, wastewater treatment plant capacity, and water and sewer infrastructure to the area. A density bonus of 0.85 dwelling units per acre was awarded to participating property owners in return for their commitment to pre-pay specified development fees. The MOU also streamlines the development review process by allowing the submittal of Preliminary and Final PADs concurrently for City Council approval. Development agreements formalizing the terms of the MOU are to be approved in conjunction with rezoning of the properties. The owner of the subject property is a participant in the MOU.

The City Council approved the annexation (Ordinance No. 99-650) of the subject property in June 25, 1999.

DISCUSSION:

Background – Existing and planned land uses surrounding the subject property include the following:

- North – Van Buren Street and then vacant undeveloped land zoned General Commercial (C-2).
- South – The Canyon Trails single family residential development with an approved density of 3.5 du/ac.
- West – Citrus Road and then Maricopa County single family residences zoned Rural Residential (R-43).
- East – The Canyon Trails single family residential development with an approved density of 3.5 du/ac.

Details of the Request – The applicant is requesting a rezoning from the Agricultural/Urban (AU) zoning district to the Final PAD zoning district for a residential, commercial, and public facilities project known as Rose Gardens, which consists of 157.23 gross acres located at the southeast corner of Van Buren Street and Citrus Road. The development proposes a mixture of single family residences, court homes, a commercial parcel located at the southeast corner of Van Buren Street and Citrus Road, and a Public Facilities District (PFD) parcel at the northeast corner of Citrus Road and Harrison Street. The Rose Gardens development proposes a maximum lot yield of 432 residential lots (360 single family lots and 72 court homes) on 136.3 net acres resulting in a net residential density of 3.17 units per acre. Rose Gardens will be comprised of four different lot sizes, three single family residential lots and one court home lot. The development proposes a court home lot size of 4,050 square feet, with the standard residential lots being a minimum of 6,900 square feet (60'x115'), and a maximum of 8,400 square feet (70'x120').

The proposed Planned Area Development also contains a request for 8.36 net acres of commercial development and 9.41 acres of PFD for a future City of Goodyear Water Campus and Fire Station. The commercial parcel would be subject to the prevailing General Commercial District (C-2) development standards, as well as prevailing standards outlined in the City of Goodyear Design Guidelines.

The Rose Gardens project is proposing the following development:

Use	Lot Size Sq. Ft	Avg. Lot Sq. Ft	Yield	Net Acres	Net Density
Residential	60 x 115	6,900	142 lots	38.49	3.69 du/ac
Residential	65 x 115	7,475	87 lots	30.90	2.82 du/ac
Residential	70 x 120	8,400	131 lots	50.86	2.58 du/ac
Residential	Court Home	4,050	72 lots	16.07	4.48 du/ac
		Total	432 lots	136.32	3.17 du/ac

The proposed PAD development standards are identified in the following table:

	60sf x 115sf	65sf x 115sf	70sf x 120sf	Court Homes	Commercial
Minimum Lot Area	6,900 sf	7,475 sf	8,400 sf	4,050 sf	10,000 sf
Minimum Lot Width	60 feet	65 feet	70 feet	40 -50 feet	150 feet
Minimum Lot Depth	115 feet	115 feet	120 feet	90 feet	Na
Maximum Lot Coverage	45%	45%	45%	NA	50%
Minimum Setbacks					
Front	20 feet*	20 feet*	20 feet*	10 feet	30 feet
Rear	20 feet	20 feet	20 feet	15 feet	20 feet**
Total Both Sides	15 feet	15 feet	15 feet	10 feet	NA
Minimum Side Yard	5/10 feet	5/10 feet	5/10 feet	5 feet	20 feet**
Street Side	10 feet	10 feet	10 feet	10 feet	30 feet***
Maximum Height	30 feet	30 feet	30 feet	30 feet	35 feet

* Ten foot setback for side entry garage or living area

** Thirty foot setback when adjacent to residential development

*** Buildings in excess of 30-feet shall provide 1-foot of additional setback for each foot of building height over 30-feet

Van Buren Street to the north and Citrus Road to the west serve as the arterial street connections for this proposed development. There are two main entrances into the

development, one via Van Buren Street east of the proposed commercial development, and the other via Citrus Road south of the proposed commercial development. Each of these entrance roads are classified as minor collector streets with 60-feet of right-of-way. All roadways within the development will be built to public road standards and will be dedicated to the City.

Approximately 32.40 acres (23.8% of net site acreage) of open space are proposed within the development. The 5.1-acre central neighborhood park will serve as the focal point for community activities. Amenities proposed within this neighborhood park include shaded ramadas, sports courts, playground areas, picnic and barbeque areas, tot lots, and open turf areas. In addition to the central park, Rose Gardens proposes four additional pocket parks/tot lots located throughout the development. A total of 19.48 acres of open space are proposed outside of the retention areas. A homeowners' association (HOA) will maintain all community open space tracts, amenities, and right-of-way landscaping.

Staff Analysis and Findings – The Rose Gardens development must proceed through the normal development review process, as modified by the MOU. This will include completion and approval of the final PAD zoning, preliminary and final subdivision plats for all residential parcels and site plan review and approval for the commercial development.

The proposed Final PAD is consistent with the property's Low Density Residential land use designation as specified on the General Plan Land Use Map. This land use was intended for residential development of the type and intensity proposed with the Rose Gardens development.

The proposed project residential density of 3.17 du/ac is supported by the amenities and infrastructure proposed with the Rose Gardens development. The developer is entitled to a density bonus of 0.85 dwelling units per acre as a participant in the MOU. Additionally, the 32.40 acres of open space, landscaped entries, and open space amenities support a density bonus in accordance with Section 2.3.5 of the General Plan.

The proposed development will be compatible with the surrounding area. Properties designated for residential development to the east and south are developing with similar densities and uses to those proposed with Rose Gardens.

The Zoning Ordinance requires that 12% of the project area be reserved as open space. The 32.40 acres (23.8% of net acreage) of open space proposed for the Final PAD will exceed this requirement and is consistent with the goals established within the Parks, Trails, and Open Space Master Plan.

A development agreement will be required for this project prior to or concurrent with zoning approval by the City Council that addresses the construction of infrastructure and the provision of City services to the property in accordance with the terms of the approved MOU. The developer will pre-pay specified fees for fire service, wastewater treatment plant capacity, and water and sewer infrastructure upon recordation of the first final plat for the development. The City's obligation will be to construct and operate the necessary infrastructure and facilities specified in the MOU in return for the pre-payment of the fees. The pre-payment of the fire contribution will entitle the developer to receive building permits and certificates of occupancy whether or not the four-minute response time goal is met.

DEPARTMENTAL/FUNCTIONAL IMPACTS:

Phoenix Goodyear Airport Impact:

The subject property is located within the Phoenix Goodyear Airport Traffic Pattern Airspace. However, the property is located over three miles from the 65 LDN noise contour line and should not be significantly impacted by airport noise.

Luke AFB Impact:

The subject property is located in the vicinity of a military airport and is approximately one mile from the 65 LDN noise contour and 2 miles from the accident potential zones of Luke AFB. Luke AFB has commented that the proposed Rose Gardens development complies with the recommended densities as stated in the Graduated Density Concept, and recommends that the developer pursue an aggressive notification procedure to inform potential homebuyers of base operations.

Electric Impact:

Electric Service will be provided by APS. A substation to serve the area within the vicinity of Rose Gardens is anticipated along Yuma Road, west of Citrus Road. A specific location for the substation has yet to be determined by APS.

Fire/Response Times Impact:

Two fire stations are contemplated in the WGCPA. The developers agreed in the MOU to fund the construction of one new Fire/EMT facility by advancing \$625 per residential unit ($432 \times \$625 = \$270,000$). In addition, the developer will pay \$738 per residential unit to offset the cost of operating and maintaining the Fire/EMT facility ($432 \times \$738 = \$318,816$). These funds will be paid after approval of the first final plat for Rose Gardens. The operational and maintenance funds are not subject to any reimbursement, offset or cost recovery. In consideration of these contributions, the City is obligated to provide fire service to Rose Gardens, and the developer will be entitled to building permits and certificates of occupancy even if the City has not completed the fire station.

Currently Rose Gardens is not within the desired four-minute response time goal for fire and emergency services and will be serviced by Fire Station No. 4 at Yuma Road and Wildflower Drive approximately 2.5 miles from the proposed development. In November of 2007, the City of Goodyear purchased 8.3 acres of land at the northwest corner of Citrus Road and Harrison Street for a future fire station and water campus that will ultimately serve the Rose Gardens development.

Police Impact:

At time of building permit issuance, a development fee for police service will be collected. The current fee is \$606 per detached residential unit ($432 \times \$606 = \$261,792$).

Schools Impact:

The planned Rose Gardens development lies within the jurisdiction of the Avondale Elementary School District and the Agua Fria High School District. The developer has entered into an agreement with the school districts allocating \$1,300.00 per residential lot, \$845.00 to the Avondale Elementary School District and \$445.00 to the Agua Fria High School District.

Solid Waste Impact:

Residential solid waste and recyclables collection will be provided at curbside by the City of Goodyear in accordance with standard solid waste collection policy.

Storm Water Impact:

The developer will be required to retain all storm water drainage generated by this development on the site. Off-site flows that currently pass through the site will need to be accommodated. The acceptance and discharge facilities proposed for the off-site flows are considered conceptual as preliminary calculations, sizes, depths, elevations, etc, have not been provided. It shall be understood that based on the conceptual nature of the information provided, the project layout approved with the PAD and preliminary plat may need to be modified during the construction plan review to provide facilities that meet the City of Goodyear's requirements. These issues will be addressed during construction plan review and prior to recording of any final plats for the project.

Streets/Transportation/Access Impact:

At time of building permit issuance, an arterial streets development fee will be collected. The current fee is \$651 per detached residential unit ($432 \times \$651 = \$281,232$).

Wastewater Impact:

The City has agreed to design, build and operate at least a two million gallon per day expansion to the City's Water Reclamation Facilities (WRF). The developer will fund his portion of this WRF expansion by contributing \$3,730 for each detached residential unit ($432 \times \$3,730 = \$1,611,360$). If the City adopts a new wastewater treatment capacity fee which exceeds \$3,730, then the developer (owner) will pay any difference at time of building permit issuance.

The 16 developers within the MOU are responsible for constructing any regional wastewater trunk lines. If the Rose Gardens developer or another developer within the West Goodyear Central Planning Area advances this infrastructure, then the City has agreed to use the Cost Recovery Ordinance to provide a mechanism for that developer to be reimbursed from other benefited property owners.

Water Impact:

The 16 developers associated with the MOU will fund a water study to determine the water facilities (wells, storage tanks, treatment, and transmission lines) needed to serve the properties within the WGCP area. The estimated cost of water facilities is \$2,289.06 per residential unit. However, the water study may increase the cost for each dwelling unit. The developer has committed to an advance payment of \$2,289.06 per residential unit after approval of the first final plat, and to make up any difference in cost at time of building permit issuance ($432 \times \$2,289 = \$988,874$). The final amount of the water contribution will be subject to City approval.

The 16 developers are responsible for constructing any water delivery mains. If the developer of Rose Gardens or another developer within the West Goodyear Central Planning Area advances this infrastructure, then the City has agreed to use the cost recovery ordinance to provide a mechanism for that developer to be reimbursed from other benefited property owners.

The Developer will be required to extinguish any irrigation groundwater rights and transfer them to the City as part of the final subdivision platting process.

In November of 2007, the City of Goodyear purchased 8.3 acres of land at the northeast corner of Citrus Road and Harrison Street for a future fire station and water campus. It is anticipated that the water campus portion of the site will be operational in the year 2011.

CITIZEN PARTICIPATION:

Citizen Review Meeting:

A citizen review meeting was held regarding the Rose Gardens development on May 28, 2008. Adjacent property owners were notified in writing and a notice was published in the West Valley View. There were two property owners from the Canyon Trails residential development, whose homes backed up to the proposed development that participated in the meeting. At this meeting, the residents voiced concern about having a collector road adjacent to the rear of their properties. The applicant stated that there would only be one entrance into the proposed development via Van Buren Street and that there would be no street adjacent to existing homes to the east.

Planning and Zoning Commission Meeting:

The Planning and Zoning Commission conducted a public hearing for this rezoning request at their regular meeting held on October 15, 2008. At the meeting, the Commission recommended approval of the rezoning, subject to the recommended stipulations, by a unanimous (6-0) vote. No one from the public spoke at the meeting.

FISCAL IMPACT:

The economic impact analysis for the residential portion of this proposal indicates a negative cumulative impact on the General Fund of \$255,645 net present value, which includes construction sales tax.

In accordance with the approved MOU, the developer will pre-pay specified development fees to the City of Goodyear upon recording of the first final plat for the development. Shown below are the projected funds to be paid to the City:

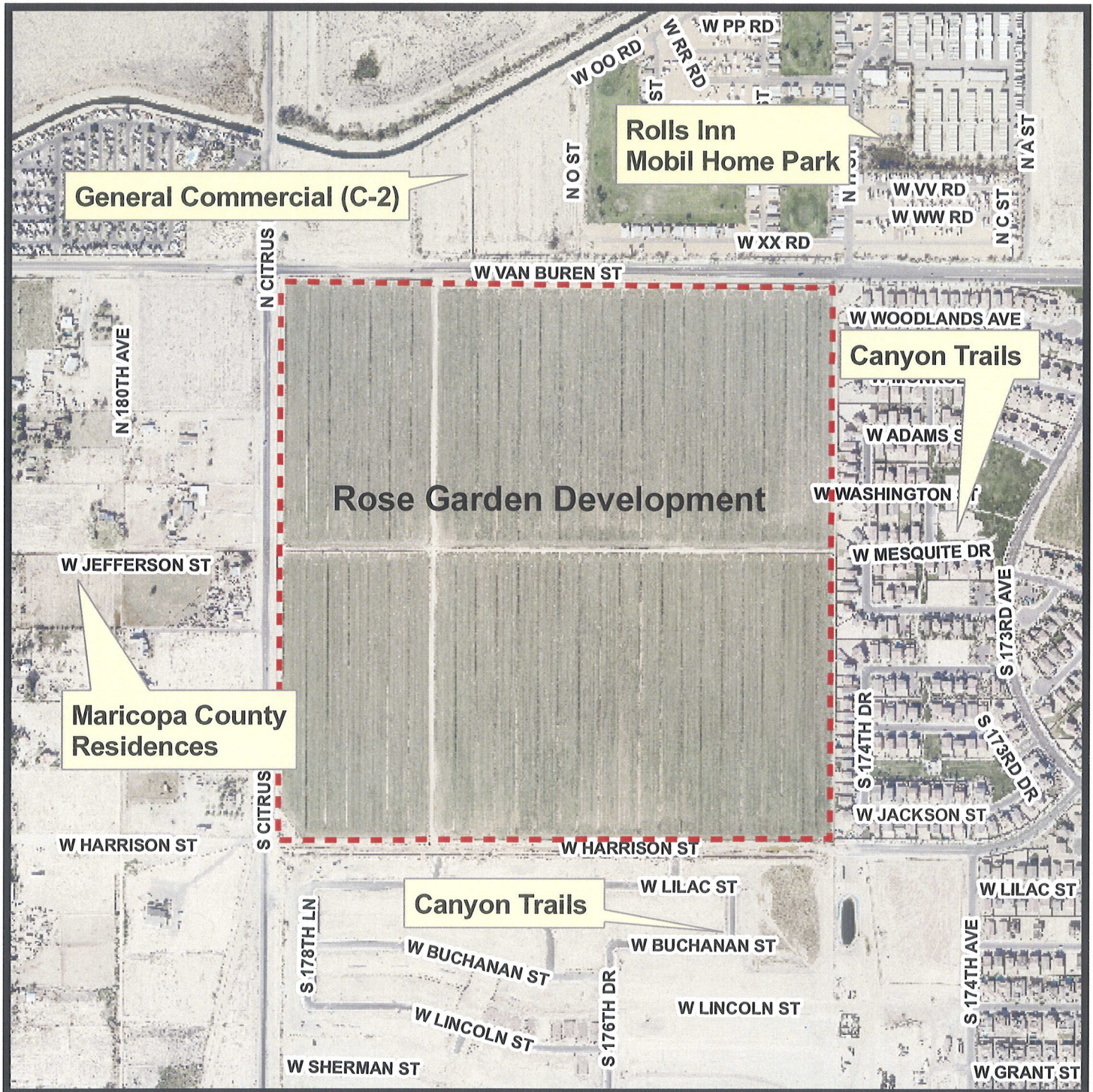
- Wastewater Treatment Plant Expansion: 432 units x \$3,730 = \$1,611,360
- Fire/EMT Facility: 432 units x \$625 = \$270,000
- Fire O&M: 432 units x \$738 = \$318,816

The proposed development contains 8.36 acres of commercial land use that will have a net positive impact to the General Fund through increased sales tax revenue, as well as provide additional employment opportunities within the City. The commercial development is not addressed in the MOU and there for will be required pay prevailing commercial development fees.

ATTACHMENTS:

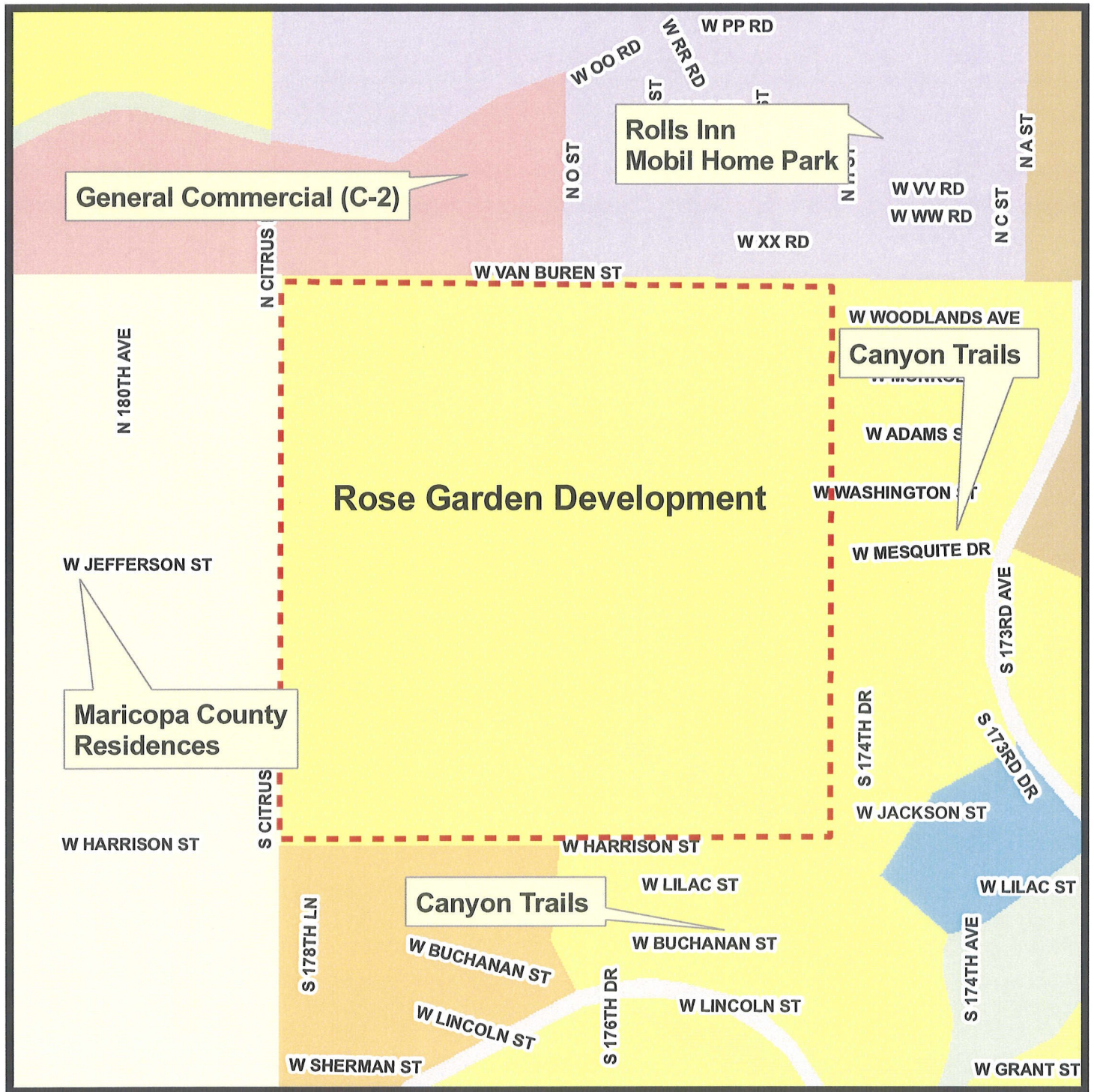
1. Rose Gardens Planned Area Development, dated September 17, 2008
2. Area Vicinity Map
3. General Plan Land Use Map
4. Existing Zoning Map
5. November 15, 2007, Letter from Luke AFB

**Aerial Vicinity Map
Rose Garden PAD
Case No. 07-200-00024**



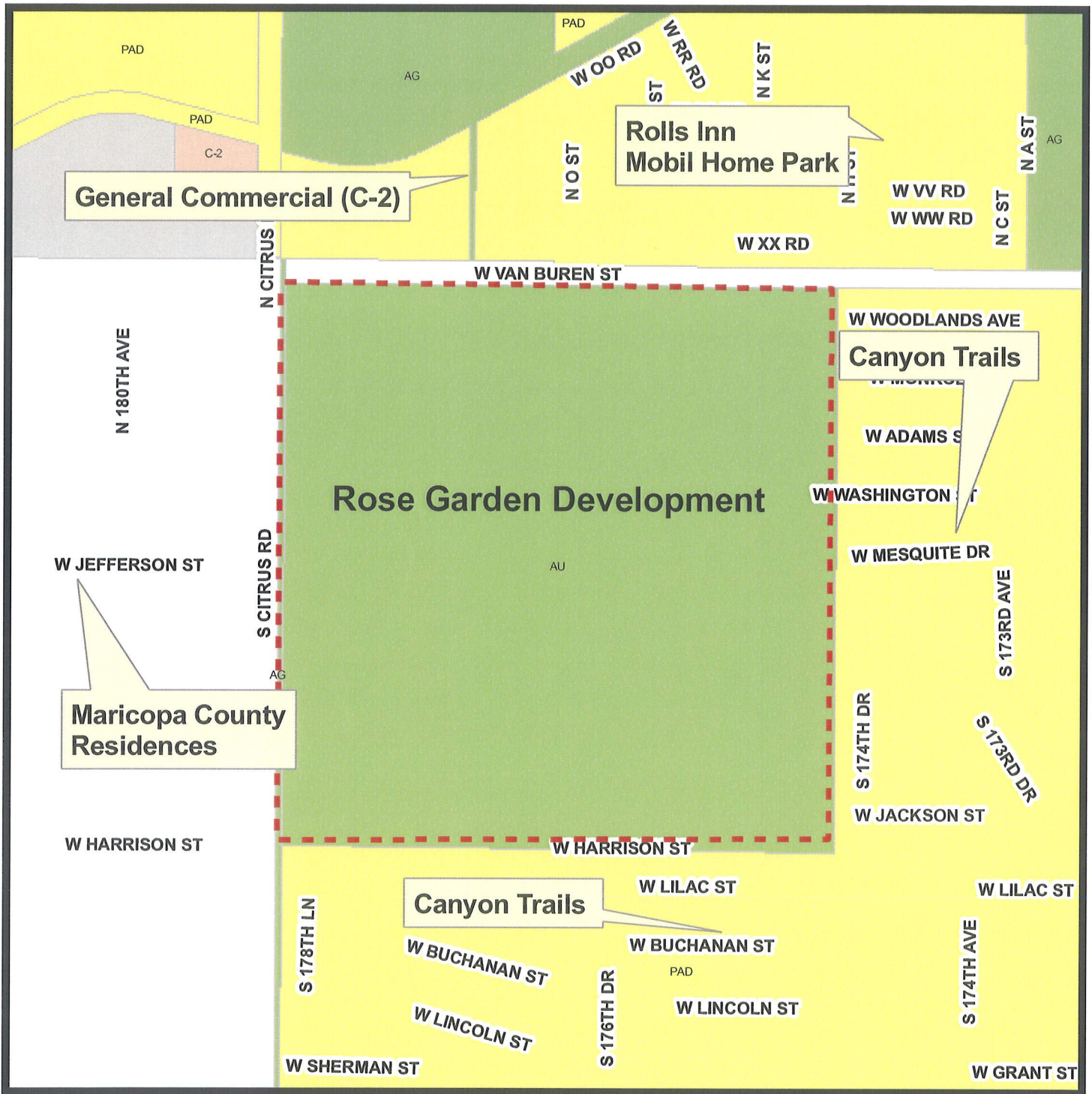
Drawn By: Rick Williams
City of Goodyear Community Development Department
September 23, 2008

**Land Use Map
Rose Garden PAD
Case No. 07-200-00024**



Drawn By: Rick Williams
City of Goodyear Community Development Department
September 23, 2008

Zoning Map
Rose Garden PAD
Case No. 07-200-00024



Drawn By: Rick Williams
 City of Goodyear Community Development Department
 September 23, 2008



EXHIBIT "A"

PARCEL NO. 1:

The Northeast quarter of the Northwest quarter of Section 11, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

PARCEL NO. 2:

The Northwest quarter of the Northwest quarter of Section 11, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPTING that portion thereof described as follows:

COMMENCING at the Northwest corner of said Section 11;

Thence East along the North line of said Section 11, a distance of 520.00 feet to a point;

Thence South along a line parallel with and 520.00 feet East of the West line of said Section 11, a distance of 520.00 feet to a point;

Thence West along a line parallel with and 520.00 feet South of the North line of said Section 11, a distance of 520.00 feet to a point on the West line of said Section 11;

Thence North along the West line of said Section 11, a distance of 520.00 feet to the POINT OF BEGINNING;

EXCEPTING the North 55 feet and the West 55 feet thereof for highway and/or roadway purposes; and

EXCEPTING that portion thereof described as follows:

BEGINNING at a point South 55 feet and East 55 feet from the Northwest corner of said Section 11;

Thence East parallel with the North line of said Section 11, a distance of 30 feet;

Thence Southwest to a point 55 feet East of the West line and 85 feet South of the North line of said Section 11;

Thence North 30 feet to the POINT OF BEGINNING for highway purposes.

PARCEL NO. 3;

The East half of the Southeast quarter of the Northwest quarter of Section 11, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

PARCEL NO. 4:

That part of the Northwest quarter of the Northwest quarter of Section 11, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at the Northwest corner of said Section 11;

Thence East along the North line of said Section 11, a distance of 520.00 feet to a point;

Thence South along a line parallel with and 520.00 feet East of the West line of said Section 11, a distance of 520.00 feet to a point;

Thence West along a line parallel with and 520.00 feet South of the North line of said Section 11, a distance of 520.00 feet to a point on the West line of said Section 11;

Thence North along the West line of said Section 11, a distance of 520.00 feet to the POINT OF BEGINNING;

EXCEPTING the North 55 feet and the West 55 feet thereof for highway and/or roadway purposes; and

EXCEPTING that portion thereof described as follows:

BEGINNING at a point South 55 feet and East 55 feet from the Northwest corner of said Section 11;

Thence East parallel with the North line of said Section 11, a distance of 30 feet;

Thence Southwest to a point 55 feet East of the West line and 85 feet South of the North line of said Section 11;

Thence North 30 feet to the POINT OF BEGINNING for highway purposes.

PARCEL NO. 5:

The West half of the Southeast quarter of the Northwest quarter of Section 11, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

PARCEL NO. 6:

The Southwest quarter of the Northwest quarter of Section 11, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

END OF EXHIBIT "A"

**AGREEMENT FOR THE WAIVER OF CLAIMS
FOR DIMINUTION IN VALUE OF PROPERTY**

THIS AGREEMENT FOR THE WAIVER OF CLAIMS FOR DIMINUTION IN VALUE OF PROPERTY (the "Agreement") is made in favor of the City of Goodyear ("City") by SILVA FARMING ENTERPRISES, L.L.P. ("Owner").

RECITALS

A. Owner is the fee title owner of property, described in Exhibit A ("Legal Description of Property") and located at the southeast corner of Citrus Road and Van Buren Street (the "Property").

B. Owner acknowledges that he/she has made a request to the City for application of its land use laws for the development of the Property and is under no compulsion, economic or otherwise, to enter into this Agreement.

C. Arizona statute ARS § 12-1134.A provides that a city must pay just compensation to a land owner, in some cases, if the city approves a land use law that reduces the fair market value of the owner's property. This law is sometimes referred to as "Proposition 207" or the "Private Property Rights Protection Act". (ARS 12-1131, et.seq.)

D. The Private Property Rights Protection Act (e.g., A.R.S. § 12-1134.I) authorizes private property owners to enter into agreements with political subdivisions to waive any claim for diminution in value of their property in connection with any action requested by the property owner.

E. City and Owner seek to resolve whether the application of the City's land use laws to the Property constitute a "diminution in value" of the Property or other harm entitling Owner, now or in the future, to seek compensation from the City under the Private Property Rights Protection Act.

IT IS AGREED AS FOLLOWS:

Owner hereby makes the following acknowledgements and representations:

1. Owner acknowledges that:

- a. The recitals set forth above are true and correct and are incorporated herein by this reference.
- b. Owner is aware of the Private Property Rights Protection Act. (ARS 12-1131, et.seq.)
- c. Owner has independently determined and believes that the application of the City's land use laws to the Property will not reduce the fair market value of the Property.
- d. Owner is aware that, as a condition of receiving approvals under the City's land use laws, the City may impose various requirements upon the Property, such as requirements for right-of-way dedications, time limitations for development, and other zoning ordinance stipulations and conditions.

2. The undersigned Owner agrees as follows:

- a. The Owner agrees and consents to all of the conditions and/or stipulations recommended by the Goodyear Planning and Zoning Commission and City staff that are to be enacted by the City Council

in conjunction with the City's approval of the Owner's request for application of the city's land use laws to the Owner's Property. Owner agrees that compliance with these conditions and/or stipulations will govern development of the property. Owner further understands and agrees that stipulations and conditions may be added or modified by the City Council during the public hearing process, and that any added or modified stipulations and conditions would need to be incorporated into an amendment to this Agreement, and that the Owner's execution of such amendment to the Agreement shall be a further condition or stipulation to the City Council's approval of the Owner's request.

b. Owner hereby waives and fully releases any and all financial loss, injury, claims and causes of action that Owner may have, now or in the future, for any "diminution in value" and for any "just compensation" under the Private Property Rights Protection Act in connection with the application of the City's land use laws to Owner's Property. This waiver constitutes a complete release of any and all claims and causes of action that may arise or may be asserted under the Private Property Rights Protection Act.

c. Owner hereby agrees to indemnify, hold harmless and defend City, its officers, employees and agents, from any and all claims, causes of actions, demands, losses and expenses, including reasonable attorney's fees and litigation costs asserted by or resulting from any of the present owners of any interest in the Property seeking any potential compensation, damages, attorney's fees or costs under the Private Property Rights Protection Act that they may have, as a result of the application of the City's land use laws on the Property.

d. This Waiver Agreement shall run with the land and shall be binding upon all present and future owners of any interest in the Property.

e. The Owner agrees that, as of the effective date of this Agreement, he/she has received equal protection of the laws and due process of all claims and requests, and has not suffered any compensable regulatory taking (as those terms and their related claims are defined by Arizona state and federal constitutional jurisprudence).

3. Owner warrants and represents that Owner is the owner of the fee title to the Property.

4. The person who signs this Agreement on behalf of Owner personally warrants and guarantees to City that he has legal power to bind Owner to this Agreement.

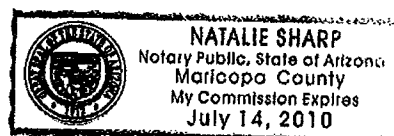
Owner: JOHN F. SILVA By: John F. Silva
(Print Name) (Signature of Owner)

STATE OF ARIZONA)
) ss.
County of Maricopa)

Subscribed, sworn to and acknowledged before me by John Silva on this
27th day of October, 2008.

My commission expires:
July 14, 2010

Natalie Sharp
Notary Public





DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

14 May 2008

Mr. James R. Mitchell
Director, Community Initiatives Team
56th Fighter Wing
14185 W. Falcon Street
Luke AFB AZ 85309-1629

Ms. Lucia Perrault
City of Goodyear
P.O. Box 5100
Goodyear AZ 85338-5100

Re: Case #08-50000001 Rose Gardens

Dear Ms. Perrault

Thank you for the opportunity to comment on the Preliminary Plat Application for Rose Gardens, a Planned Area Development. Rose Gardens is located on 151.11 gross acres at the southeast corner of Citrus and Van Buren Roads. Plans call for the development of 457 residential dwelling units (du) with a gross density of 3.02 du/acre. The development is approximately 1-2 miles outside the 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 AFB follows the guidelines in the Graduated Density Concept (GDC). The GDC proposes, in the absence of a more restrictive state, county or municipal general or comprehensive plan, graduating densities away from the 65 Ldn as follows: a maximum of 2 du/acre from the 65 Ldn to 1/2 mile, a maximum of 4 du/acre from 1/2 mile to 1 mile and a maximum of 6 du/acre from 1 to 3 miles. The above gross density of 3.02 du/acre falls within these guidelines.

Since Rose Gardens will be located within the "territory in the vicinity of a military airport," it will be subjected to noise from approximately 165 over flights per day, with some as low as 1,500 feet above the ground. We recommend you review the sound attenuation requirements found in A.R.S. § 28-8482. In addition, a strong notification program on the part of the applicant is essential to inform potential residents about Luke AFB operations. We also recommend a review of the Luke AFB web site at <http://www.luke.af.mil>, Community Interests and Community Initiatives links, for further information.

If you have any questions, please contact my Community Planner, Mr. Bob Dubsky, at (623) 856-6195.

Sincerely

JAMES R. MITCHELL

cc:

Colonel Henry M. Reed III, Vice Commander, 56th Fighter Wing



08-3994