

ORDINANCE NO. 2023-1569

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 43.93 ACRES OF PROPERTY LOCATED AT THE NORTHEAST CORNER OF BULLARD AVENUE AND CELEBRATE LIFE WAY TO BE KNOWN AS URBAN DISTRICT 10 FROM THE PRELIMINARY PLANNED AREA DEVELOPMENT ZONING DISTRICT TO THE FINAL PLANNED AREA DEVELOPMENT ZONING DISTRICT; 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 43.93 acres and is located at the northeast corner of Bullard Avenue and Celebrate Life Way, as more particularly described in that certain document titled "Legal Description," which document was declared public record by Resolution No. 2023-2285, 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 Preliminary Planned Area Development (PAD) for mixed use commercial and industrial development pursuant to Ordinance No. 07-1091 in which the Goodyear City Council conditionally approved the Preliminary PAD zoning on 187 acres and conditionally approved Final PAD zoning on 25 acres adopting the Airport Gateway at Goodyear Planned Area Development (PAD); and

WHEREAS, this request is to rezone the Property to the Final Planned Area Development Zoning District and adopt the "Urban District 10 Final PAD (October 2022)" to allow for a 43.93-acre business/commerce park project; 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 business/commerce park project; and

WHEREAS, because there is no planned or existing residential development within 500 feet (the surrounding notification area) of the Property, a formal neighborhood meeting was not held, and in lieu of the meeting, a postcard was mailed on July 8, 2022, notifying the surrounding owners of the rezoning request; 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 January 11, 2023, appeared in the Arizona Republic Southwest Valley edition on December 23, 2022; postcards were mailed to surrounding owners on December 14, 2022; and signs were posted on the Property on December 21, 2022 to notify residents of the scheduled public hearing; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on January 11, 2023, and at that meeting the Commission voted (X to X) 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 January 23, 2023, appeared in the Arizona Republic Southwest Valley Edition December 23, 2022, and a revised public notice appeared in

the paper on January 6, 2023, informing readers that the City Council meeting would start at 5 p.m. rather than 6 p.m.; postcards were mailed to surrounding owners on December 14, 2022, and revised postcards were mailed on January 3, 2023, informing surrounding owners that the City Council meeting would start at 5 p.m. rather than 6 p.m.; and signs on the site were posted on the Property on December 21, 2022, to notify residents of the scheduled public hearing, and the signs were updated on January 4, 2023, to notify residents that the City Council meeting would start at 5 p.m. rather than 6 p.m.; 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. 2023-1569 applies to approximately 43.93 acres located at the northeast corner of Bullard Avenue and Celebrate Life Way and legally described in that certain document titled "Legal Description," which document was declared public record by Resolution No. 2023-2285, and which is hereby adopted, referred to and made a part hereof as if fully set forth in this Ordinance (the "Property").

SECTION 2. ADOPTION OF FINDINGS

The clauses set forth above are hereby adopted and incorporated herein by this reference as if fully set forth herein.

SECTION 3. REZONING

The Property is conditionally rezoned to the Final Planned Area Development (PAD) Zoning District by the adoption herein of that certain document titled "Urban District 10 Final PAD (October 28, 2022)" which document was declared public record by Resolution No. 2023-2285, and which is hereby adopted, referred to and made a part hereof as if fully set forth in this Ordinance (the "Urban District 10 Final PAD").

SECTION 4. STIPULATIONS

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

1. Except as modified by the following stipulations and conditions of approval set forth herein, development of the Property shall be in compliance with the Urban District 10 Final PAD ("Final PAD"); and
2. Subject to compliance with all other requirements in the Final PAD and the stipulations in this Ordinance 2023-1569, a

minimum of four buildings shall be constructed on the Property and no truck courts or dock doors on any building shall face the boundaries of the Property; and.

3. If warehouses, wholesale, distribution and/or manufacturing facilities are developed on the Property, the orientation of the buildings and internalized truck courts and loading docks shall be in substantial conformance with Final PAD Exhibit A - Conceptual Site Plan; and
4. The specific allowed uses, accessory uses, and uses permitted with a use permit in the Final PAD are as established in the Urban District 10 Final PAD document; and
5. Development within the Property shall comply with the Development Standards for Industrial Districts set forth in Article 3-4-3(B)(8) related to the screening of all outdoor storage areas for materials, trash, equipment, freezers, vehicles or similar items, as well as the screening of loading, delivery, roll-up/dock doors, and service and wash bays; and
6. Any above ground silos, tanks, and other similar structures that are accessory uses to a primary building shall be located in an internalized truck court and loading dock area adjacent to the primary building and shall not exceed the height of the primary building; and
7. A 50-foot wide landscape buffer that complies with the Bullard Avenue Corridor Design Treatment Strategies dated November, 2018 shall be constructed along the frontage of Bullard Avenue (the "Bullard Avenue Landscape Buffer") No Final Certificate of Occupancy shall be issued for any structure on the Property until the Bullard Avenue Landscape Buffer improvements have been completed; and
8. Owner shall complete the construction of "Oasis Park", shown in the center of the Property on Final PAD Exhibit E - Conceptual Landscape Plan and described in the Final PAD, prior to obtaining a Final CO for any building on the Property except for Building A; and
9. "Oasis Park" shall be constructed with the following minimum components:
 - a. 4 quadrants of open space, divided by drive aisles, totaling a minimum of 2.5 acres of open space. Each quadrant will include, at a minimum:
 - i. Turf, gravel, shade trees, and shrubs; and
 - b. Amenities for employees and visitors, which shall include, at a minimum:
 - i. Planters, benches, shade structures, lighting, and

trash receptacles; and

10. All turf in "Oasis Park" shall be artificial turf; and
11. The Secondary Pathway extending in a north to south direction from the north property line to the south property line through "Oasis Park" as shown on Final PAD Exhibit E - Conceptual Landscape Plan, shall be a minimum of 6 feet wide and shall be colored (Mohave Brown) concrete.
12. Approval of the rezoning does not constitute approval of the site plan. All future development will be subject to site plan review and approval by city staff, at which time all elements of site development will be reviewed, including, but not limited to, architecture, landscaping, grading and drainage, lighting, infrastructure, parking, access and circulation; and
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, including infrastructure improvements identified in approved studies, reports, or the like that are to be submitted during the development process; 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. Owner shall construct all improvements needed for the completion of full half-street improvements for the north half of the section of W. Celebrate Life Way along the frontage of the Property required for a Major Collector Rd. as set forth in the Engineering Design Standards in effect at the time of construction, which improvements shall be determined during the site plan process (the "Celebrate Life Way Improvements"). If the installation of a median is required, Owner shall construct the full median and full median landscaping. Unless otherwise approved by the City Engineer or his designee in a written phasing plan, the Celebrate Life Way Improvements shall be completed and accepted by the City Engineer or his designee subject to completion of the warranty period prior to the issuance of any CO for any building within the Property; and
17. Owner shall construct all improvements needed for the completion of full half-street improvements for the west half of the section of N. 143rd Ave. along the frontage of the Property required for a Minor Collector Rd. as set forth in the Engineering Design Standards in effect at the time of construction, which shall be determined during the site plan process (the "N. 143rd Ave. Improvements"). Unless otherwise approved by the City Engineer or his designee in a written phasing plan, the N. 143rd Ave. Improvements shall be completed and accepted by the City Engineer or his designee subject to completion of the warranty period prior to the issuance of any CO for any building within the Property; and
18. Owner shall coordinate directly with the owner (irrigation district/private owner) of existing irrigation facilities on the Property that need to be modified and/or removed to

accommodate the development of the Property and Owner shall be responsible, at Owner's sole cost, for obtaining terminations of easement rights if needed and for removing, relocating, and modifying existing irrigation facilities as required by the City for the development of the Property and/or by the owner of the existing irrigation facilities; and

19. Owner shall apply to the Arizona Department of Water Resources (ADWR) for the extinguishment of the Type 1 Rights appurtenant to the Property (Certificate No.'s 100656.0035 & 100656.0034) 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
20. The Traffic Impact Analysis submitted with the application to rezone the Property is not approved. An updated traffic study shall be submitted with the first Site Plan submittal. The updated traffic study shall address all comments that were provided as third review informational comments on the Rezone. The Traffic Impact Analysis will be subject to further review which may result in changes to the proposed access points and additional off-site roadway and traffic signal improvements.

SECTION 5. ABRIDGMENT OF OTHER LAWS

Except where expressly provided, nothing contained herein shall be construed to be an abridgement of any other ordinance, regulation, or requirement of the City of Goodyear.

SECTION 6. AMENDMENT TO ZONING MAP

The Zoning Map of the City of Goodyear is hereby amended to reflect the rezoning set forth in Section 3 of this Ordinance by the adoption of that certain document titled, "Official Supplementary Zoning Map No. 22-09," declared a public record by Resolution 2023-2285, 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 upon the effective date of Resolution 2023-2285 or thirty (30) days from the date this Ordinance is adopted and passed whichever is later.

SECTION 10. PENALTIES

Any person who violates and provision of this ordinance shall be subject to penalties set forth in Section 1-2-3 of the City of Goodyear Zoning Ordinance as it may be amended from time to time and which currently provides:

Section 1-2-3 Violations and Penalties

- A. It is unlawful to construct, erect, install, alter, change, maintain, use or to permit the construction, erection, installation, alteration, change, maintenance, or use of any house, **building, structure**, sign, landscaped area, **parking lot** or fence, or to permit the use of any **lot** or land contrary to, or in violation of any provisions of this **Ordinance**, or of any conditions, stipulations or requirements included as a condition of any applicable approval. Any land use that is specifically prohibited by this **Ordinance** or is unspecified and not classified by the **Zoning Administrator** is prohibited in any **district**.
- B. Responsible Party. The responsible party for any violations hereunder is the owner of personal property improvements or real property and/or person in possession or control of any personal property improvements or real property (**Person**). The responsible party shall be responsible for any violations hereunder whether or not the responsible party or its agent committed the prohibited act(s) or neglected to prevent the commission of the prohibited act(s) by another.
- C. Every Responsible Party shall be deemed responsible or guilty of a separate offense for each and every day during which any violation is committed or continued.
- D. Penalty. Any **Person** who violates any of the provisions of this **Ordinance** and any **amendments** there to and/or any conditions, stipulations or requirements included as a condition of any applicable approval shall be:
 - 1. Subject to civil sanctions of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) per offense;
or

2. Guilty of a class 1 misdemeanor, punishable by a fine not exceeding two thousand five hundred dollars (\$2,500), or by a term of probation not exceeding three (3) years, or imprisonment for a term not exceeding six (6) months, or punishable by a combination of fine, probation or imprisonment. The City Prosecutor is authorized to file a criminal misdemeanor complaint in the City of Goodyear Municipal Court for violations hereunder

SECTION 11. RECORDATION

This Ordinance shall be recorded with the Maricopa County Recorder's Office.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, by a _____ vote, this _____ day of _____, 20____.

Joe Pizzillo, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney