

ORDINANCE NO. 2023-1562

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 66.6 ACRES OF PROPERTY LOCATED AT THE SOUTHWEST CORNER OF LITCHFIELD ROAD AND I-10 FROM PRELIMINARY PLANNED AREA DEVELOPMENT AND PLANNED AREA DEVELOPMENT (PAD) TO FINAL PLANNED AREA DEVELOPMENT (PAD) FOR THE GOODYEAR CELEBRATION PLAZA PLANNED AREA DEVELOPMENT; 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 subject property consists of approximately 66.6 acres generally located at the southwest corner of Litchfield Road and I-10, legally described in those certain documents titled Celebration Plaza Legal Descriptions which documents were declared a public record by Resolution No. 2023-2279, and which are referred to and made a part hereof as if fully set forth in this Ordinance (collectively the "Property"); and

WHEREAS, the Property is designated as "Business and Commerce" on the General Plan Land Use and Transportation Plan. This land use category provides for the growth and development of shopping, office and entertainment areas along with high-density residential and public and community facilities; and

WHEREAS, approximately 26 acres of the Property are currently zoned Preliminary Planned Area Development (PAD). That PAD is known as the Airport Gateway PAD, and was approved by Council on October 9, 2007 with the adoption of Ordinance No. 07-1091; and

WHEREAS, the Property within the Airport Gateway PAD is designated as 'Business Park' which allows uses such as professional and medical office buildings, commercial trade schools and business colleges, light manufacturing, restaurants and retail; and

WHEREAS, the remaining approximate 44 acres of the Property are zoned Planned Area Development (PAD). That PAD is known as the Goodyear Palms Plaza PAD, and was approved by Council on December 14, 2008 with the adoption of Ordinance No. 08-1153; and

WHEREAS, the Property within the Goodyear Palms Plaza PAD is designated as mixed-use commercial allowing uses such as retail, office, and hotels; and

WHEREAS, the request is to rezone the approximately 66.6-acre Property to Final PAD as set forth in Goodyear Celebration Plaza Planned Area Development Standards and Guidelines Book dated December 5, 2022, which document was declared a public record by Resolution No. 2023-2279 and which is hereby adopted, referred to and made a part hereof as if fully set forth in this Ordinance (the "Celebration Plaza PAD")

WHEREAS under the Celebration Plaza PAD approximately 16.6 acres of the Property will be developed as MF-12 Multi-family as modified by the Celebration Plaza PAD, approximately 13.67 acres of the Property will be developed as MF-24 Multi-Family as modified by the Celebration Plaza PAD, approximately 9.87 acres of the Property will be developed either as either MF-24 Multi-Family or CO Commercial Office as modified by the Celebration Plaza PAD (the "Hybrid District"), approximately 15.46 acres of the Property will be developed as CO Commercial Office

as modified by the Celebration Plaza PAD, and approximately 11.03 acres of the will be developed as C-2 General Commercial as modified by the Celebration Plaza PAD; and

WHEREAS, the portion of the Property to be developed as multi-family residential is intended to provide for high densities and to that end the proposed Celebration Plaza PAD includes: (i) an increase in the density allowed in the portions of the Property to be developed as MF-12 Multi-Family from 12 Du/AC to 15 Du/AC; (ii) an increase in the density allowed in the portions of the Property to be developed as MF-24 Multi-Family from 24 Du/Ac to 30 Du/Ac; a minimum overall density for all multi-family residential development within the Property of 18 Du/Ac; and a requirement that all residential structures within the portion of the Property to be developed as MF-12 Multi-Family Residential shall be at least two-stories; and

WHEREAS, to accommodate the increase in densities, the maximum height allowed for structures within the portion of the Property to be developed as MF-12 Multi-Family is increased from 25 feet to 30 feet and the maximum height allowed for structures within the portion of the Property to be developed as MF-24 Multi-Family is increased from 40 feet to 56 feet; and

WHEREAS, the proposed rezoning will permit the development of a commercial center along Litchfield Road that permits uses within the C-2 (General Commercial) zoning district, but eliminates specific uses in keeping with the intent of the current PAD and it allows for the development of an office complex within the C-O (Commercial Office) zoning district; and

WHEREAS, the Celebration Plaza PAD creates a Hybrid District that can be developed either as MF-24 Multi-Family or CO Commercial Office, but under the terms of the Celebration Plaza PAD for the first 18 months following adoption of this Ordinance, the Hybrid District may only be developed as CO Commercial Office. If the site is undeveloped within 18 months of the adoption of this Ordinance, the Hybrid District may be developed as either MF-24 Multi-Family or CO Commercial Office; and

WHEREAS, in accordance with the city's Citizen Review Process, a citizen review was held on October 18, 2022. Notice providing information on the request and meeting details was mailed to surrounding property owners within 500 feet of the subject property. There was no opposition to the request received at the citizen review meeting; and

WHEREAS, a request to rezone property requires public review and approval by the Planning and Zoning Commission and the City Council through the public hearing process. The rezoning must be in conformance with the General Plan and should not adversely impact the surrounding area as outlined in the Zoning Ordinance; and

WHEREAS, staff has determined that the proposed rezoning request is in conformance with the General Plan and will not adversely impact the surrounding area; 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; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on January 11, 2023, to consider this rezoning, and the Commission voted (X-X) to recommend/not recommend approval of the rezoning subject to the stipulations that have been presented; and

WHEREAS, public notice that this PAD rezoning is to be considered and reviewed at a public hearing held before the City Council on January 23, 2023 appeared in the Arizona Republic Southwest Valley edition on December 23, 2022; and

WHEREAS, based on the foregoing Recitals and the other information presented, 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 health, safety, and welfare;

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. 2023-1562 applies to approximately 66.6 acres generally located southwest of Litchfield Road and I-10 as legally described in that certain document titled Legal Description – Celebration Plaza, which document was declared a public record by Resolution No. 2023-2279 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

The Property is conditionally rezoned from Preliminary Planned Area Development (PAD) and Planned Area Development (PAD) to Planned Area Development (PAD) Zoning District by the adoption herein of the certain document titled Goodyear Celebration Plaza Planned Area Development Standards and Guidelines dated December 5, 2022, which document was declared a public record by Resolution 2023-2279 and which is hereby adopted, referred to and made a part hereof as if fully set forth in this Ordinance

SECTION 4. STIPULATIONS

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

1. Except as modified by the following stipulations and conditions of approval set forth herein, all development of the Property shall be in compliance with the Goodyear Celebration Plaza Planned Area Development Standards and Guidelines Book dated December 5, 2022, which document was declared a public record by Resolution No. 2023-2279 and which is hereby adopted, referred to and made a part hereof as if fully set forth in this Ordinance (the “Celebration Plaza PAD”); and
2. For the first 18 months following the adoption of this Ordinance, the Hybrid Property, as that term is defined in the Celebration Plaza PAD, shall be developed as CO Commercial. If the Hybrid Property is undeveloped within 18 months of the adoption of this Ordinance, the

Hybrid Property may be developed as either the MF-24 Multi-Family or CO Commercial Office

3. All Public Sales Reports for the Property, all final plats and minor land divisions subdividing all or part of the Property, and all rental agreements for the rental of any residential unit within the Property shall include the following disclosures: The Property is subject to attendant noise, vibrations, dust, and all other effects that may be caused by overflight and by the operation of aircraft landing at or taking off from the Phoenix-Goodyear Airport. All final plats and minor land divisions subdividing all or part of the Property shall include notes setting forth the foregoing requirements including the requirements that such disclosures be included within all rental agreements for the rental of any residential units within the Property; and;
4. Signage shall be posted within all sales and rental offices selling or renting residential units that identifies the location of the Phoenix Goodyear Airport: 65 Ldn and higher noise contours, departure corridors, and vicinity boundary. This display shall include a 24-inch x 36-inch map at the main entrance of such sales and rental offices and shall include the approximate locations of the Phoenix Goodyear Airport: 65 Ldn and higher noise contours, departure corridors, and vicinity boundary and all of the buildings on the Property; and
5. Owner shall comply with the requirements in Article 9-1 and all sections therein. A sound attenuation plan that complies with the requirements of Sections 9-1-3 and 9-1-4 of the City of Goodyear Zoning Ordinance, shall be submitted with all site plans that include multi-family residential structures located completely or partially within 500 feet of the exterior edge of the I-10 right-of-way boundary. The development of the Property subject to the sound attenuation plan shall incorporate all sound attenuation measures included in sound attenuation plans as approved by the City; and
6. The Conceptual Site Plan attached as Exhibit 2 to the Celebration Plaza PAD, the Pedestrian Circulation and Open Space Plan attached as Exhibit 3 attached to Celebration PAD are not approved. All future development within the Property will be subject to site plan and design 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
7. 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, 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, phasing plans, grading and drainage plans, 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 Engineering Design Standards and Policies Manual at the time of site plan or preliminary plat submittal, including, but not limited to the following:

- a. 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 development of the Property for review and approval of both the City Engineer or his/her designee and ADOT. 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 the public right-of-way to the Property, all of which shall comply with all applicable regulations including the requirements in the Engineering Design Standards and Policies Manual and requirements imposed by ADOT because of the Property's proximity to I-10; and
 - b. The Preliminary Sewer Report submitted with the application for rezoning is not approved. An updated Preliminary Sewer Report that complies with all of the requirements in the Engineering Design Standards and Policies Manual shall be submitted with the first preliminary plat and/or site plan submitted for the development of the Property and approved by the City Engineer or his/her designee. The Preliminary Sewer Report shall include an analysis of the existing (current conditions) of the Palm Valley Crossing Lift Station verifying that it can adequately convey the additional proposed flows generated by the development of Property as rezoned consistent with all applicable Development Regulations, including requirements in the Engineering Design Standards and Policies Manual; and
8. No signage is approved for the Property. A Comprehensive Sign Package shall be submitted for this property in compliance with the City of Goodyear Zoning Ordinance Article 7 (Sign Regulations). Any requests for deviation from Article 7 will require the Comprehensive Sign Package to be approved by City Council; and
9. Owner shall construct, at Owner's sole cost and expense, all infrastructure improvements determined by the City as being necessary to provide water service and wastewater service to the Property, including by way of example but not limitation, upgrades to the Palm Valley Crossing Lift Station if needed to accommodate the additional flows generated by the development of the Property as rezoned; and
10. Owner shall design and construct, at no cost to the City, all improvements needed for the completion of the full half-street improvements for the west half of the section of N. Litchfield Road along the frontage of the Property required for a Major Arterial as set forth in the Engineering

Design Standards in effect at the time of construction, which improvements shall be determined during the site plan or platting process, but which includes, at a minimum the installation of a bike lane (the "N. Litchfield Road Improvements"). If the installation of a median is required, Owner shall construct the full median and full median landscaping. The N. Litchfield Road Improvements shall be completed prior to the issuance of any Certificate of Completion, Temporary Certificate of Occupancy or Certificate of Occupancy for any structure within the Property; and

11. The Owner shall provide for the preservation and maintenance of the existing row of mature palm trees located along the Litchfield Road frontage of the property in the preparation of site improvements. All palm trees that are removed for the purpose of locating a drive must be relocated on the site, unless the Development Services Director, or his/her designee, determines that the extended life or existing condition of the palm trees does not warrant preservation. Any palm trees that do not warrant preservation shall be replaced with new palm trees; and
12. Owner shall design and construct, at no cost to the City, all improvements needed for the completion of full half street improvements for the north half of the section of the W. Celebrate Life Way along the frontage of the property required for a Major Collector as set forth in the Engineering Design Standards and Policies Manual in effect at the time of construction, which improvements shall be determined during the site plan or platting process (the "Celebrate Life Way Improvements"). If the installation of a median is required, Owner shall construct the full median and full median landscaping. 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 Certificate of Completion, Temporary Certificate of Occupancy or Certificate of Occupancy for any structure within the Property; and
13. Owner shall construct all improvements needed for the completion of full half-street improvements for the east half of the section of N. 143rd Ave. along the frontage of or within 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"). 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 Certificate of Completion, Temporary Certificate of Occupancy or Certificate of Occupancy for any structure within the Property; and
14. Owner, at Owner's sole cost and expense, shall relocate or replace existing traffic signal improvements, as may be needed to the accommodate access to the Property or the completion fo the N. Litchfield Road Improvements. If existing traffic signal improvements have to be relocated, Owenr shall, at no cost to the City, convey to the City, lien free and free of all encumbrances unless expressly agreed to by the City, the property where the relocated traffic signals are located; and

15. Owner is responsible for a proportionate share of the costs of any new traffic signals identified in an approved Traffic Impact Analysis/Study as being needed. If an updated Traffic Impact Analysis/Study reflects the need for any additional traffic signal at any intersection adjacent to the Property, Owner shall, at no cost to the City, convey, in fee, lien free, and free of any easements or encumbrances unless specifically agreed to by the City, any additional right-of-way needed for the construction of the portion of the traffic signal that will be located on the Property. In addition, Owner shall make an in-lieu payment to the City towards the cost of the signal. Except as provided herein, the in-lieu payment will be 25% of the cost of a full traffic signal for each corner of the intersection adjacent to the Property. For example, if a traffic signal is required at an intersection where two of the four corners of the intersection are adjacent to the Property, Owner would be responsible for 50% of the cost of a full traffic signal. The in-lieu payment shall be calculated based on the actual cost of the traffic signal if it has been constructed or, if the payment is made before the traffic signal has been completed, upon an engineer's estimate of the probable cost of the signal approved by the City Engineer or his designee traffic signal. The dedication(s) and in-lieu payment(s) required herein shall be made at the earlier of the following: (i) before the issuance of any engineering permit for any of the work reflected in a site plan, Minor Land Division ("MLD"), or final plat that includes, is adjacent to, or requires connection to the intersection where the traffic signal is needed; or (ii) before the recordation of any final plat or MLD that includes, is adjacent, or requires connection to the intersection where the traffic signal is needed; and
16. 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 the approval of any Site Plan, 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
17. 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
18. Owner shall design and construct, at no cost to the City, all infrastructure improvements required by the City of Goodyear subdivision regulations and Engineering Design Standards and Policy Manual in effect at the time of development; 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. 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 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 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
21. 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
22. If any of the infrastructure improvements required by Owner to design and construct pursuant to the terms of this Ordinance have been constructed or are to be constructed by others, then Owner shall remit an in-lieu 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 to the issuance of any Certificate of Completion, Temporary

Certificate of Occupancy or Certificate of Occupancy for any structure within the Property.

SECTION 5. AMENDMENT OF 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. 22-10A, declared a public record by Resolution 2023-2279 and which is hereby adopted, 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 6. RECORDATION

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

SECTION 7. 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 8. 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 9. 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 10. EFFECTIVE DATE

This Ordinance shall become effective as prescribed by law. The provisions of the city of Goodyear Zoning Ordinance being amended by this Ordinance shall remain in full force and effect until the effective date of this Ordinance.

SECTION 11. 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 12. 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