

ORDINANCE NO. 2023-1570

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 12.8 ACRES OF PROPERTY GENERALLY LOCATED SOUTH OF INTERSTATE 10 AND WEST OF BULLARD AVENUE TO BE KNOWN AS SOUTHWEST SPECIALITY FOODS; 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, the property subject to this Ordinance consists of approximately 12.8 gross acres generally located south of Interstate 10 and west of Bullard Avenue as more particularly described in that certain document titled "Legal Description", which document was declared public record by Resolution No. 2023-2289, and which is referred to and made a part of hereof as if fully set forth in this Ordinance (the "Property"); and

WHEREAS, in 2000, the owner rezoned 12.8 acres of the parcel from AU (Agricultural Urban) to C-2 (General Commercial) and 44 acres to I-1 (Light Industrial) with the adoption of Ordinance No. 2000-0702; and

WHEREAS, during the 2000 rezoning, a 12.8-acre parcel retained its original AU (Agricultural Urban) zoning pursuant to Ordinance 1983-0156; and

WHEREAS, the land use designation in the Goodyear 2025 General Plan for the Property is Business and Commerce; and,

WHEREAS, this request is to rezone the 12.8-acre Property to I-1 (Light Industrial) to allow for the Property to develop in accordance with the uses and development standards established in the I-1 zoning district; and,

WHEREAS, city staff finds that the proposed rezoning will not adversely impact the surrounding area as the proposed land use; and

WHEREAS, a Citizen Review Meeting Notice was mailed to property owners within 500 feet of the property on December 29, 2022 and a sign advertising the rezoning application was posted on the site on January 4, 2023 and a Citizen Review Meeting was held on January 26, 2023; and,

WHEREAS, public notice that this rezoning was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on May 10, 2023 appeared in the Arizona Republic Southwest Valley edition on April 21, 2023; postcards mailed to property owners within 500 feet on March 27, 2023 and signs on the site were updated on March 28, 2023 to notify residents of the scheduled public hearing; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on May 10, 2023, and at that meeting the Commission voted (#-#) to recommend approval of the proposed zoning; and

WHEREAS, a public notice that this rezoning request would be considered and reviewed at a public hearing held before the City Council on May 22, 2023 appeared in the Arizona Republic Southwest Edition on April 21, 2023; postcards were mailed to property owners within 500 feet of

the property on March 27, 2023; and signs on the site were updated March 28, 2023 to notify residents of the scheduled public hearing; 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. DESCRIPTIONB OF PROPERTY BENG REZONED

This Ordinance No. 2023-1570 applies to approximately 12.8 acres generally located south of Interstate 10 and west of Bullard Avenue and legally described in that certain document titled "Legal Description," which document was declared a public record by Resolution 2023-2289, 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 FINDINDS

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 I-1 (Light Industrial) District.

SECTION 4. CONDITIONS AND STIPULATIONS

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

1. The Property shall be developed in accordance with the requirements of the City of Goodyear Zoning Ordinance as it may be amended from time to time applicable to the I-1 (Light Industrial) Zoning District as amended herein. All future development on the subject property will be subject to site plan review and approval by city staff, at which time all elements of site development will be reviewed, including, but not limited to, architecture, landscaping, grading and drainage, lighting, infrastructure, parking, access and circulation; and
2. If the development of the Property triggers the need for a second public access to the Property off of N. Bullard Avenue, Owner shall construct all improvements needed for the completion of full half-street improvements for the west half of the section of N. Bullard Avenue between the intersection of N. Bullard Avenue and W. Celebrate Life Way and the northern boundary of the Property required for a Major Arterial Road 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 "Bullard Avenue Improvements"). Owner shall be responsible for dedicating, in fee and at no cost to the City, all right-of-way needed for the completion of the Bullard Avenue Improvements. Unless otherwise approved by the City Engineer or his designee in a written phasing plan, the Bullard Avenue Improvements shall be completed in connection with recordation of any final plat subdividing all or part of the Property adjacent to N. Bullard Ave. and shall be completed and accepted by the City Engineer or his designee prior to the issuance of any certificate of occupancy within the section of the Property within such final plat; and

3. Owner shall dedicate, at no cost to the city, all necessary Public Utility Easements (PUE) along the frontage of the west half of the N. Bullard Avenue in its ultimate build out condition as required to serve the Property. Such dedication shall be made prior to the issuance of the first civil construction permit within such portion of the Property or when requested by the City Engineer, whichever is earlier; and
4. 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. 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
5. 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

6. A CLOMR for the Property must be approved by the City of Goodyear and FEMA prior to issuance of civil construction permits for any work within any portion of the Property located within the floodplain; and
7. Owner shall channelize the portion of the Bullard Wash adjacent to the Property pursuant to an approved CLOMR/LOMR process to bring that portion of the Property that is currently in the floodplain out of the floodplain; and
8. In addition to compliance with the stipulations and conditions of approval set forth herein, the development of the Property shall comply with the city of Goodyear Zoning Ordinance, subdivision regulations, Engineering Design Standards and Policies Manual, 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 local laws, ordinances, rules, regulations, standards, and policies applicable to the development of the Property; and
9. 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

10. 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 100656.0027) 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 earlier of the following: (i) the issuance of a permit for the construction of a building within the Property or (ii) when farming operations on the Property cease; and
11. There shall be a 50-foot wide landscape buffer on the west property line, planted with two rows of trees and shrubs along the exterior (west) side of the required wall, which may not be placed within the buffer. Each row of trees is to contain 24-inch box trees spaced 30-feet on center, staggered for maximum effect in buffering the two uses; and
12. All outdoor storage areas for materials, trash, equipment, vehicles, or similar items shall be screened from public view, including the western property line/Bullard Wash. Screening shall be a combination of walls, trees and shrubs as approved by the Zoning Administrator; and
13. Decibel levels generated by operations within the Property shall not exceed 65dB, as measured by the Zoning Administrator, along the western and southern boundaries of the Property; and
14. No lighted building wall signage shall face an existing or planned residential use; and
15. The Property is designated as Lighting Zone 2, and shall comply with all lighting standards for this zone as established in Article 10, Outdoor Lighting Standards, of the city of Goodyear Zoning Ordinance.

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. 22-18," declared a public record by Resolution 2023-2289, 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 Administration, City Clerk, and the codifiers of this Ordinance are authorized to make necessary clerical corrections to this Ordinance, including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

SECTION 8. SEVERABILITY

If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions of the ordinance or parts thereof.

SECTION 9. EFFECTIVE DATE

This Ordinance shall become effective as prescribed by law.

SECTION 10. PENALTIES

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

Section 1-2-3 Violations and Penalties

- A. It is unlawful to construct, erect, install, alter, change, maintain, use or to permit the construction, erection, installation, alteration, change, maintenance, or use of any house, **building**, **structure**, sign, landscaped area, **parking lot** or fence, or to permit the use of any **lot** or land contrary to, or in violation of any provisions of this **Ordinance**, or of any conditions, stipulations or requirements included as a condition of any applicable approval. Any land use that is specifically prohibited by this **Ordinance** or is unspecified and not classified by the **Zoning Administrator** is prohibited in any **district**.
- B. Responsible Party. The responsible party for any violations hereunder is the owner of personal property improvements or real property and/or person in possession or control of any personal property improvements or real property (**Person**). The responsible party shall be responsible for any violations hereunder whether or not the responsible party or its agent committed the prohibited act(s) or neglected to prevent the commission of the prohibited act(s) by another.
- C. Every Responsible Party shall be deemed responsible or guilty of a separate offense for each and every day during which any violation is committed or continued.
- D. Penalty. Any **Person** who violates any of the provisions of this **Ordinance** and any **amendments** there to and/or any conditions, stipulations or requirements included as a condition of any applicable approval shall be:

1. Subject to civil sanctions of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) per offense; or
2. Guilty of a class 1 misdemeanor, punishable by a fine not exceeding two thousand five hundred dollars (\$2,500), or by a term of probation not exceeding three (3) years, or imprisonment for a term not exceeding six (6) months, or punishable by a combination of fine, probation or imprisonment. The City Prosecutor is authorized to file a criminal misdemeanor complaint in the City of Goodyear Municipal Court for violations hereunder

SECTION 11. RECORDATION

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

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

Joe Pizzillo, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney