

ORDINANCE NO. 2023-1577

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 47.35 ACRES OF PROPERTY LOCATED AT THE SOUTHEAST CORNER OF SARIVAL AVENUE AND MARICOPA COUNTY HIGHWAY 85 TO BE KNOWN AS SEC SARIVAL AND MC-85; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR NON-ABRIDGEMENT; PROVIDING FOR CORRECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PENALTIES; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PENALTIES; AND DIRECTING THE CITY CLERK TO RECORD A COPY OF THIS ORDINANCE.

WHEREAS, this property subject to this Ordinance consists of approximately 47.35 acres and is located at the southeast corner of Sarival Avenue and Maricopa County Highway 85 and is known as SEC Sarival and MC-85 as more particularly described in that certain document titled "Legal Description," which document was declared public record by Resolution No. 2023-2329, and which is referred to and made a part hereof as if fully set forth in this Ordinance (the "Property"); and,

WHEREAS, the Property is located just south of a Southern Pacific Railroad corridor; and

WHEREAS, the Property is located adjacent to the Maricopa County Highway 85 (MC-85) which lies along the northern boundary of the property; and

WHEREAS, the property is located adjacent to the future Arizona State Route 30 (Tres Rios Freeway); and

WHEREAS, the property will be located within two and one-half miles from the future four to five stack freeway interchange of the Arizona State Route 303 Loop (Loop 303/Estrella Freeway) and the future Arizona State Route 30 (Tres Rios Freeway); and

WHEREAS, on December 12, 2005, the City Council conditionally approved the zoning for the Preliminary Planned Area Development (PAD) for Riverside Park, which had approximately 298.4 acres of Residential and Business Park, with the adoption of Ordinance No. 05-976; and,

WHEREAS, the approximately 47.35 acres known as SEC Sarival and MC-85 is within a portion of the aforementioned 298.4 acres zoned Preliminary Planned Area Development (PAD) for Riverside Park No. 05-976; and,

WHEREAS, the 47.35-acre site has an underlying land use of Business Park; and,

WHEREAS, the General Plan Land Use Plan shows the Property designated as 'Industrial'; and,

WHEREAS, this request intends to replace the industrial uses on this property with I-1 (Light Industrial) subject to modified Planned Area Development (PAD) Overlay as established with this Ordinance; and,

WHEREAS, the rezoning will permit the Property to be developed with Light Industrial uses and will adhere to the principal permitted uses, permitted accessory uses, use permit uses, special uses and development regulations as established in the city of Goodyear Zoning Ordinance for the I-1, Light Industrial zoning district; and

WHEREAS, the applicant desires to have buildings exceed the current maximum height of 50 feet and fall within a new maximum height of 70 feet; and

WHEREAS, the city has previously allowed buildings to exceed the maximum height of 50 feet and fall within a new maximum height above 70 feet in large industrial areas; and

WHEREAS, to ensure that the increased height will not impact properties developed for residential uses, the increased height will not apply to any portion of the Property within 500 feet of any property zoned for any residential use; and

WHEREAS, city staff finds that the proposed rezoning will not adversely impact the surrounding area as the proposed land uses will allow for the orderly growth and development of a light industrial development; and

WHEREAS, an alternative notification process was used for this rezoning. A formal citizen review meeting was not held, but notice providing information on the rezone was mailed to the owners of property within 500 feet of the subject property and other stakeholders on August 3, 2023; and

WHEREAS, public notice that this rezoning was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on September 13, 2023, appeared in the Arizona Republic Southwest Valley edition on August 25, 2023 and postcards were mailed to adjoining owners on August 16, 2023; and a sign was posted on the site on August 24, 2023; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on September 13, 2023, and at that meeting the Commission voted (TBD-TBD) to recommend approval/denial of the proposed rezoning; and

WHEREAS, a public notice that this rezoning request would be considered and reviewed at a public hearing to be held before the City Council on September 25, 2023 appeared in the Arizona Republic Southwest Valley Edition August 25, 2023; postcards were mailed to adjoining owners on August 16, 2023; and a sign was posted on the site on August 24, 2023; and

WHEREAS, the Mayor and Council of the City of Goodyear, Arizona find the adoption of this Ordinance to be in the best interests of the public interest, health, comfort, convenience, safety, and general welfare of the citizens of the City.

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

SECTION 1. DESCRIPTION OF PROPERTY BEING REZONED

This Ordinance No. 2023-1577 applies to approximately 47.35 acres located at the southeast corner of Maricopa County Highway 85 and Sarival Avenue and legally described in that certain document titled "Legal Description," which document was declared public record by Resolution No. 2023-2329, and which is referred to and made a part hereof as if fully set forth in this Ordinance (the "Property").

SECTION 2. ADOPTION OF FINDINGS

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

SECTION 3. REZONING AND PLANNED AREA DEVELOPMENT OVERLAY

That certain property legally described in that certain document titled "Legal Description", declared a Public Record by Resolution No. 2023-2329, and which is referred to and made a part hereof as if fully set forth in this Ordinance (the "Property"), is conditionally rezoned from Preliminary Planned Area Development (PAD) to the Planned Area Development (PAD) Zoning District with an underlying zoning district of the I-1 (Light Industrial) zoning district with the following PAD Overlay. The Property shall be developed in accordance with all requirements in the Goodyear Zonign Ordinance as it may be amended applicable to the I-1 (Light Industrial) zoning district, including, but not limited to, the permitted uses and development standards applicable to the I-1 (Light Industrial) zoning district, except as follows:

1. Except as provided herein, the maximum height for structures within the Property is increased from 50 feet to 70 feet; and
2. The maximum height of structures located within 500 feet of any property zoned for any residential use, including property designated as residential in a preliminary or final PAD, is 50 feet. No building permit shall be issued for a building that exceeds 50-feet in height that is within 500-feet of any property that is zoned for a residential use as set forth herein; and,
3. No cross-dock warehousing (i.e. warehouses with dock doors for loading and unloading of stored goods) and no cross-dock transfer facilities (i.e. facilities that provide for the transfer of goods from incoming vehicles to outbound vehicles with little or no storage) is permitted on the Property; and,
4. Except as provided herein, no more than eight (8) roll-up doors and/or service and wash bay doors shall be permitted to face the southern boundary of the Property, and no more than (4) roll-up doors and/or service and wash bay doors shall be permitted to face Maricopa County Highway 85 (MC-85) for the portion of the Property located west of the 161st Avenue Alignment. The number of roll-up doors and/or service and wash bay doors permitted herein may be increased by no more than 100% if additional screening measures are to be implemented and the Zoning Administrator or his/her designee determines that the additional screening measures prevents or substantially limits the visibility of the roll-up doors and/or service and wash bay doors from being seen from the property south of the Property (the future Arizona State Route 30 (Tres Rios Freeway)) and from Maricopa County Highway 85 (MC-85); and,
5. Except as provided above, roll-up doors and/or service and wash bay doors on the portion of the Property located west of

the 161st Avenue Alignment shall be oriented to face east and west and shall be oriented in a manner so that roll-up doors and/or service and wash bay doors do not face S. Sarival Avenue. Notwithstanding the foregoing, buildings may be constructed with roll-up doors and/or service and wash bay doors that face S. Sarival Avenue provided another building within the Property blocks the roll-up doors and/or service and wash bay doors from being visible from S. Sarival Avenue; and,

6. The buildings within the portion of the Property west of the 161st alignment shall provide direct pedestrian connections to Sarival Avenue and all buildings within the Property shall have pedestrian connections to one another or access to a public sidewalk; and,
7. A thirty-foot (30') landscape buffer shall be constructed along the southern boundary of the Property. The buffer shall include earthen berms with a maximum height of six-feet (6') and a maximum slope of 3:1. A minimum, one 24-inch nondeciduous box tree and one 15-gallon nondeciduous tree shall be planted for every 30-feet of the adjacent lot line; and,
8. A minimum of one (1) outdoor shaded employee break area shall be provided for each building that exceeds 50,000 square feet; and,
9. Building color schemes, wall materials and colors and architectural elements shall be cohesive between the development on the entirety of the Property; and,
10. Buildings should include bold colors and not simply be a grey base color with shades of gray, black blue but rather a neutral desert base color with additional bolder colors to add vibrancy.

SECTION 4. CONDITIONS OF REZONING

The rezoning of the Property is subject to the following conditions of approval ("Stipulations"):

1. Approval of the rezoning does not constitute approval of any site plan for development within the Property. All future development will be subject to site plan review and approval by city staff, at which time all elements of site development will be reviewed, including, but not limited to, architecture, landscaping, grading and drainage, lighting, infrastructure, parking, access and circulation; and,
2. Owner shall apply to the Arizona Department of Water Resources (ADWR) for the extinguishment of the Type 1 Rights appurtenant to the Property and request that any assured water supply credits issued by ADWR as a result of any such extinguishment be credited to the City of Goodyear. Said extinguishment shall occur

prior to recordation of the first final plat subdividing all or part of the Property or the issuance of any construction permits for work within the Property, whichever is earlier; and,

3. Owner shall construct, at Owner's sole cost and expense, all on-site and off-site infrastructure improvements determined by the City as being necessary to provide water service and wastewater service to the Property; and,
4. Except as otherwise provided in a Development Agreement approved by the Goodyear City Council, Owner shall, at Owner's sole cost, provide the city with a physically and legally available water supply sufficient to provide the water needed to serve the Property in excess of 1,000 gallons per acre per day that satisfies the Arizona Department of Water Resources' ("ADWR") standards for modifications of the City of Goodyear's Designation of Assured Water Supply to increase the Designation water portfolio by an amount equivalent to the amount of the additional water needed to serve the Property and that provides for sufficient renewable supplies to offset the additional water demand. Notwithstanding this requirement, no part of this stipulation shall be construed as a promise of availability of up to 1,000 gallons per acre per day of City water to serve the Property, which availability shall be determined by the City in the City's sole discretion and pursuant to the limitations of the City's latest Designation of Assured Water Supply order, committed demand changes, ordinances and policies in effect at the time Owner submits Owner's final plat or site plan for uses within the property; and,
5. The City's obligation to provide water and sewer service to the Property is limited to the flow volumes reflected in the water reports and sewer reports for the Property approved by the City Engineer or designee. If the flow volumes of water and/or sewer exceed the flow volumes reflected in the approved water reports and/or approved sewer reports the city shall be entitled to terminate service to the Property until Owner submits updated reports to the City that addresses: (i) the capacity of the existing infrastructure to deliver the additional wastewater flows to the 157th Avenue Water Reclamation Facility; (ii) the availability of uncommitted capacity at the city's 157th Avenue Water Reclamation Facility to accept and treat the additional wastewater flows; (iii) the availability of an uncommitted potable water supply; and (iv) the capacity of existing water delivery lines to deliver the additional water flows to the Property(the "Updated Report(s)"). The Updated Report(s) shall identify all additional infrastructure that needs to be constructed for the city to accept the increased flow volumes of wastewater at the 157th Avenue Water Reclamation Facility and to deliver the increased flow volumes of water to the Property. The city shall have no obligation to provide

service to accommodate the flow volumes in the Updated Reports unless there is: an uncommitted water supply sufficient to provide the additional water flows, uncommitted capacity at the 157th Avenue Water Reclamation Facility to accept the wastewater flows reflected in the Updated Report(s) and until Owner, at Owner's sole cost and expense, has completed the construction of the infrastructure identified in the Updated Report(s) and has conveyed all real estate interests (lien free and free of all encumbrances unless agreed to by the City Engineer or designee), required for the construction of such infrastructure; and,

6. No permits for work within the Property shall be issued unless there is uncommitted capacity available at the city's 157th Avenue Water Reclamation Facility to accept wastewater flows from development within the Property as determined by the Director of the City of Goodyear's Utilities Department pursuant to the requirements and directives of the State of Arizona and Maricopa County or until Owner of the Property has executed a waiver, to be recorded against the Property, that no water meters will be issued for service to the Property until there is uncommitted capacity available at the city's 157th Avenue Water Reclamation Facility to accept wastewater flows from development within the Property as determined by the Director of the City of Goodyear's Utilities Department pursuant to the requirements and directives of the State of Arizona and Maricopa County; and
7. The Traffic Impact Analysis submitted with the application for rezoning is not approved. An updated Traffic Impact Analysis that complies with all of the requirements in the Engineering Design Standards and Policy Manual ("EDS&PM") shall be submitted with the first preliminary plat and/or site plan submitted for the development of the Property and approved by the City Engineer or his/her designee. The Traffic Impact Analysis shall identify all infrastructure required to accommodate the additional trips generated by the development of Property as rezoned, and the location of all access points from public rights-of-way to the Property, all of which shall comply with all applicable regulations including the requirements in the EDS&PM. Owner, at no cost to the City, shall construct, at Owner's sole cost all infrastructure identified in the approved Traffic Impact Analysis as being needed to support the development of the property. Owner shall dedicate at no cost to the City, the property required for the infrastructure identified in the approved Traffic Impact Analysis, which dedication shall be in fee, lien free, and unencumbered except as otherwise approved by the City Engineer. The Traffic Impact Analysis shall be approved by MCDOT, and the existing traffic counts shall be updated to the current year at the time of site plan approval and final plat approval; and,

8. Owner shall, at no cost to the city, design and construct full half-street improvements required for a Minor arterial as set forth in the EDS&PM in effect when the improvements are constructed for the east-half of the section of S. Sarival Avenue along or adjacent to the frontage of the Property except for the construction of $\frac{1}{2}$ the median and $\frac{1}{2}$ median landscaping. These improvements include, by way of example, but not limitation, pavement, decel lanes, bus bays, striping, curb and gutter, sidewalks, street frontage landscape and landscape irrigation, street lighting, and signage (the "Sarival Road Improvements"). The Sarival Road Improvements shall be completed prior to the issuance of any Temporary Certificate of Completion, Certificate of Completion, Temporary Certificate of Occupancy, and/or Certificate of Occupancy for any structure within the Property; and,
9. Owner shall remit to the city an in-lieu payment for one-half the cost of a full median and one-half the cost of full-median landscaping for the median required by the EDS&PM to be installed within the section of S. Sarival Road along or adjacent to the frontage of the Property. The in-lieu payment for the median and landscaping shall be based on the actual cost of the improvements if previously completed by others or based on the estimated cost of the improvements as determined by the City Engineer or designee. The in-lieu payments referred to herein shall be made prior to or concurrent with recordation of the first final plat subdividing all or part of the Property or prior to the issuance of any permits for construction work within the Property, whichever is earlier; and,
10. Subject to Maricopa County agreeing to deannex the right-of-way needed for the MC85 Improvements, Owner shall, at no cost to the city, design and construct all improvements to MC-85 along or adjacent to the frontage of the Property required by Maricopa County (the "MC85 Improvements"). The MC85 Improvements shall be designed and constructed pursuant to Maricopa County's standards and shall be permitted by Maricopa County. The MC85 Improvements shall be completed prior to the issuance of any Temporary Certificate of Completion, Certificate of Completion, Temporary Certificate of Occupancy, and/or Certificate of Occupancy for any structure within the Property; and,
11. Owner shall, at no cost to the city, convey, in fee and free from all liens and encumbrances other than those approved by the City Engineer or his/her designee, the following right-of-way:
 - a. A full 55-feet of right-of-way for the east half of S. Sarival Avenue along and adjacent to the northern boundary of the Property required for the construction of the McDowell Improvements; and

- b. All right-of-way required by Maricopa County Department of Transportation for the construction of the MC85 Improvement Improvements, If directed by the City Engineer or his designee, the conveyance required herein shall be made to Maricopa County; and,
- 12. Owner is responsible for a proportionate share of the cost of a full traffic signal (all four legs), which may include, but is not limited to, access ramps, curbing, sidewalk, push buttons and streetlights) at the following intersections. The in-lieu payment, the payment shall be based on the actual cost of the traffic signal if it has been constructed or if the payment is required before the signal is constructed it shall be based on the estimated cost of the traffic signal as determined by the City Engineer or designee. Owner's traffic signal obligations are as follows:
 - a. 25% at S. Sarival Road and MC 85 for the southeast corner; and,
- 13. In addition to constructing the infrastructure improvements specifically identified herein, Owner shall construct, at no cost to the City, all infrastructure improvements required by the City of Goodyear subdivision regulations, all Building Codes and Regulations adopted by city, and Engineering Design Standards and Policy Manual in effect at the time of construction; and,
- 14. Owner shall dedicate, at no cost to the city, all rights-of-way and/or easements within the boundaries of the Property that are:
 - (i) needed for the construction of infrastructure improvements required for the City to provide water and wastewater services to the Property; (ii) required to be dedicated under any applicable law, code, ordinance, rule, regulations, standards, guidelines governing the development of the Property including, but not limited to the City of Goodyear subdivision regulations, Building Codes and Regulations, and the City of Goodyear's Engineering Design Standards and Policies; (iii) required for the construction of improvements for which Owner is responsible for making in-lieu payments; (iv) required to be dedicated pursuant to any development agreement with the City regarding the development of the Property; (v) required for the construction of the infrastructure improvements to be constructed pursuant to the stipulations herein, and/or (vi) required public infrastructure improvements Owner is required to construct pursuant to any applicable law, code, ordinance, rule, regulations, standards, guidelines governing the development of the Property including, but not limited to the City of Goodyear subdivision regulations, Building Codes and Regulations, and the City of Goodyear's Engineering Design Standards and Policies. The rights-of-way to be dedicated shall be dedicated in fee and all rights-of-ways and easements shall be dedicated lien free and, unless otherwise agreed to by the City, free of all other easements or other encumbrances. Unless the timing of the required dedications is

modified by any stipulation in this ordinance, the terms of a written development agreement approved by the Council or a written phasing plan approved by the City Engineer or his designee, all dedications shall be made prior to or concurrent with recordation of a final plat or approval of a site plan that includes the area in which the dedicated property is located or when requested by the City Engineer or his/her designee, whichever is earlier; and,

15. In addition to compliance with the stipulations and conditions of approval set forth herein, the development of the Property shall comply with the Goodyear Zoning Ordinance, the City of Goodyear subdivision regulations, the City of Goodyear's Engineering Design Standards and Policies, except as modified by the City Engineer, the Maricopa County Association of Governments standards for public works construction, all Building Codes and Regulations adopted by the City of Goodyear, and all other federal, state and local laws, ordinances, rules, regulations, standards, and policies applicable to the development of the Property; and,
16. The references to specific obligations that are addressed in the City's Development Regulations, which include but is not limited to, the requirements in the City of Goodyear Engineering Design Standards and Policies Manual, the City of Goodyear Subdivision Regulations, the City of Goodyear Zoning Ordinance, and the Building Codes and Regulations adopted by the City of Goodyear, does not relieve Owner of complying with all applicable Development Regulations; and,
17. All existing above ground utilities, except for electric lines that are 69kV or larger, located within and adjacent to the Property, including but not limited to, cable and electrical utilities, shall be placed underground at no cost to the City. Unless modified by a written phasing plan approved by the City Engineer or his/her designee or by a development agreement approved by the Goodyear City Council, the undergrounding of the utilities required herein shall be completed prior to the issuance of the first Certificate of Completion, Temporary Certificate of Occupancy or Certificate of Occupancy for any structure within the Property.

SECTION 5. ABRIDGMENT OF OTHER LAWS

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

SECTION 6. AMENDMENT TO ZONING MAP

The Zoning Map of the City of Goodyear is hereby amended to reflect the rezoning set forth in Section 3 of this Ordinance by the adoption of that certain

document titled, "Supplementary Zoning Map No. 22-05," declared a public record by Resolution 2023-2329, and which is referred to and made a part hereof as if fully set forth in this Ordinance, and such amendment to the Zoning Map shall be filed with the City Clerk in the same manner as the Zoning Map of the City of Goodyear.

SECTION 7. CORRECTIONS

The Zoning Administrator, City Clerk, and the codifiers of this Ordinance are authorized to make necessary clerical corrections to this Ordinance, including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

SECTION 8. SEVERABILITY

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

SECTION 9. EFFECTIVE DATE

This Ordinance shall become effective as prescribed by law.

SECTION 10. PENALTIES

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

Section 1-2-3 Violations and Penalties

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

- C. Every Responsible Party shall be deemed responsible or guilty of a separate offense for each and every day during which any violation is committed or continued.
- D. Penalty. Any **Person** who violates any of the provisions of this **Ordinance** and any **amendments** there to and/or any conditions, stipulations or requirements included as a condition of any applicable approval shall be:
 - 1. Subject to civil sanctions of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) per offense; or
 - 2. Guilty of a class 1 misdemeanor, punishable by a fine not exceeding two thousand five hundred dollars (\$2,500), or by a term of probation not exceeding three (3) years, or imprisonment for a term not exceeding six (6) months, or punishable by a combination of fine, probation or imprisonment. The City Prosecutor is authorized to file a criminal misdemeanor complaint in the City of Goodyear Municipal Court for violations hereunder

SECTION 11. RECORDATION

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

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

Joe Pizzillo, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney