

ORDINANCE NO. 2023-1591

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 37.45 ACRES OF PROPERTY LOCATED AT THE NORTHEAST AND SOUTHEAST CORNERS OF ESTRELLA PARKWAY AND SAN MIGUEL DRIVE TO BE KNOWN AS 'ESTRELLA PARCELS 12.25, 12.36 & 80 NOTCH', FROM PLANNED AREA DEVELOPMENT (PAD) TO PLANNED AREA DEVELOPMENT (PAD) 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 37.45 acres and is located at the northeast and southeast corner of Estrella Parkway and San Miguel Drive and is known as Estrella Parcels 12.25, 12.36 & 80 Notch as more particularly described in that certain document titled "LEGAL DESCRIPTION FOR PARCELS 12.25, 12.36, AND 80 NOTCH," which document was declared public record by Resolution No. 2023-2344, and which is referred to and made a part hereof as if fully set forth in this Ordinance (the "Property"); and,

WHEREAS, on June 22, 1987, the City Council adopted Ordinance No. 87-217 rezoning approximately 3,500 acres as Planned Area Development (PAD) and adopting the Estrella Phase One PAD dated October 28, 1986; and,

WHEREAS, on June 24, 2019, the City Council conditionally approved the rezoning for approximately 18.40 acres as Planned Area Development (PAD) and adopting the Estrella Parcel 12.36 PAD Amendment, Regulatory Standards Book, April 2019, with the adoption of Ordinance No. 2019-1434; and,

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

WHEREAS, this request intends to replace the residential and commercial uses on this property with a PAD with an underlying land use designation of Single-Family Residential as established with this Ordinance; and,

WHEREAS, the rezoning will permit the Property to be developed with R1-6 (Single-Family Residential) 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 R1-6 (Single-Family Residential) zoning district except where modified by this PAD; 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 residential development; and

WHEREAS, a Neighborhood Meeting was conducted for this proposal and notice of the application was provided to property owners within 500 feet of the property on January 20, 2023 and a sign advertising the Neighborhood Meeting was posted to the site on January 24, 2023; and,

WHEREAS, the Neighborhood Meeting took place in person on February 16, 2023 at the Starpoint Residents Club; 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 October 18, 2023, appeared in the Arizona Republic Southwest Valley edition on September 29, 2023 and postcards were mailed to adjoining owners on September 21, 2023 and signs on the site were updated on October 2, 2023 to notify residents of the scheduled public hearing; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on October 18, 2023 and at that meeting the Commission voted (TBD-0) 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 October 30, 2023 appeared in the Arizona Republic Southwest Valley Edition September 29, 2023; postcards were mailed to adjoining owners on September 21, 2023; and signs on the site were updated on October 2, 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. DESCRIPTION OF PROPERTY BEING REZONED

This Ordinance No. 2023-1591 applies to approximately 37.45 acres located at the northeast and southeast corner of Estrella Parkway and San Miguel Drive and legally described in that certain document titled "LEGAL DESCRIPTION FOR PARCELS 12.25, 12.36, AND 80 NOTCH," which document was declared public record by Resolution No. 2023-2344, 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 Planned Area Development (PAD) to the Planned Area Development (PAD) with the Property being zoned R1-6 (Single-Family Residential) zoning district with a PAD Overlay.

SECTION 4. PLANNED AREA DEVELOPMENT

The Property shall be developed in accordance with the provisions in the Goodyear Zoning Ordinance in effect at the time of development, including the

Permitted Uses and Development Standards, applicable to R1-6 (Single-Family Residential) zoning district with R1-6 Reduced Development Standards as modified by the following PAD Overlay and as modified by the conditions/stipulation set forth below:

1. The Front Facing Garage Minimum Setback shall be 18'; and,
2. The Rear Minimum Setback shall be 15'; and,
3. The Maximum Building Coverage shall be 75%; and,
4. The Minimum Lot Size shall be 5,000 square feet; and,
5. The Minimum Open Space % (of net area) shall be 20%; and,
6. All lots within the Property shall be developed to incorporate at least ONE of the following items as described in the Zoning Ordinance Section 3-2-3:
 - a. Decorative paver driveways on 100% of homes
 - b. Porches and Courtyards on 100% of homes, with at least 50% of the homes having a covered front port that is at least forth-eight (48) square feet
 - c. Detached Sidewalks with a minimum of one (1) street tree per house and planted within a parkway planter strip
 - d. Additional design features similar in scope as determined by the Zoning Administrator and/or his/her designee; and,
7. The Minimum Side Setback shall be five feet (5') for a total of ten (10') for Both Sides; and
8. Design shall be in conformance with the Estrella Phase One PAD and the Single-Family Requirements of Chapter 2 of the City of Goodyear Design Guidelines; and
9. Except as otherwise provided in this ordinance, the following standards apply to walls when retaining walls are needed:
 - a. Retaining walls are permitted with a maximum height of six feet (6'); and,
 - b. A privacy, perimeter, or theme wall may be constructed on top of a retaining wall; and
 - c. The maximum combined height of the retaining wall and walls constructed on top of the retaining wall is twelve feet (12'),
 - i. All final plats including any portion of the Property shall contain a note that the combined wall height for walls within the Property, including residential lots walls and perimeter walls may be up to twelve feet (12') if retaining walls are needed; and
 - d. Any wall constructed on top of a retaining wall that is in excess of two feet (2') shall incorporate aesthetic enhancements that reduce the visual impact, such as a change in material with painted CMU and stucco veneer, with final design to be approved with the preliminary plat; and,
 - e. The following standards apply to all lots adjacent to Estrella Parkway and San Miguel Drive; and,
 - i. Any wall with a retaining wall in excess of two feet (2') shall be separated from Estrella Parkway or San Miguel Drive by a landscape buffer with a minimum depth of 20' from the Property boundary; and,

- ii. The maximum combined height of a retaining wall and privacy, perimeter, or theme wall shall be 10' along Estrella Parkway or San Miguel Drive; and,
- f. Where unique conditions exist and the provisions contained herein cannot be satisfied, alternative design and retaining solutions may be proposed and approved by the Zoning Administrator and/or his/her designee as needed to ensure safety and to maintain the area's overall design theme, provided that the Director may not approve a wall exceeding the maximum height set forth herein for more than 50 linear feet per instance; and,
- 10. Subject to payment of any applicable homeowners' association dues, residents within the Property shall be entitled to use a facility that provides amenities similar to those at the Presidio or the Starpointe Residents Club, which shall include at a minimum an indoor community center and a community pool; and,
- 11. In-lieu of a concrete sidewalk, an 8'-wide decomposed granite trail may be installed on the south side of San Miguel Drive from Estrella Parkway to the eastern edge of the property provided the trail includes an off-site connection to the existing north-south trails located on the powerline corridor property; and
- 12. No blocks within this development shall exceed 660-feet.

SECTION 5. 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 or platting for development within the Property. All future development will be subject to site plan review or platting 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 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,
- 3. 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,
- 4. Owner shall dedicate, at no cost to the city, all rights-of-way and/or easements within and outside 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, the City of Goodyear's Engineering Design Standards and Policies and the conditions/stipulations of approval of this Ordinance; (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; and/or (v) required for the construction of the infrastructure improvements to be constructed pursuant to the stipulations herein,. 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 condition/stipulation of approval 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,

5. If an access easement is required pursuant to any applicable Development Regulation, including but not limited to the Fire Code, for emergency services, Owner, at Owner's sole cost and expense, shall provide the City with access easement within, and if needed, outside the boundaries of the Property, for emergency services and access improvements. in a form approved by the City Attorney or his designee. Owner, at Owner's sole cost and expense, shall construct improvements within the access easement areas in compliance with all federal, state, and/or local laws, ordinances policies or procedures applicable to emergency access ways in effect at the time of construction; and Owner shall maintain the improvements in good working condition, including repairing and replacing the improvements as needed for the improvements to be in good working condition and fit for the intended purpose. unless modified by a written phasing plan approved by the City Engineer or his/her designee or by a development agreement approved by the City Council, the improvements required to be constructed herein shall be completed prior to the issuance of any Certificate of Completion, Temporary Certificate of Completion or Certificate of Completion for any structure within the Property except for model homes; and,
6. Owner shall, at no cost to the city, design and construct full street improvements (both sides) required for a collector for the section of W. San Miguel Drive along or adjacent to the frontage of the Property required for the street section as identified in an

approved Traffic Study, as set forth in the Engineering Design Standards in effect when the improvements are constructed, including, but not limited to, pavement, curb and gutter, sidewalks, street frontage landscape and landscape irrigation, and street lighting (the "San Miguel Road Improvements"). If the San Miguel Road Improvements have been completed or are being completed by the city as part of a CIP project, Owner shall, remit a payment to the city for the costs the city incurred in the design and construction of the San Miguel Road Improvements or the City Engineer's estimated costs of the San Miguel Road Improvements if not completed (the San Miguel Road Cost Recovery Payment"). If owed, the San Miguel Road Cost Recovery Payment shall be paid prior to or concurrent with the recordation of the first final plat subdividing all or part of the Property or the issuance of any construction permits for any work on the Property, whichever is earlier. Otherwise, unless modified by a written phasing plan approved by the City Engineer or his/her designee or by a development agreement approved by the City Council, the San Miguel Road Improvements shall be completed prior to the issuance of any Certificate of Completion, Temporary Certificate of Completion or Certificate of Completion for any structure within the Property except for model homes; 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 dedicate all rights-of-way and easements within and outside the boundaries of the Property needed for the construction of the infrastructure identified in the approved Traffic Impact Analysis as being needed to support the development of the Property, which includes, but is not limited to, full traffic signals (all four legs), and Owner shall, at Owner's sole cost and expense, construct such infrastructure. Unless otherwise provided in a written phasing plan approved by the City Engineer or his/her designee or by a development agreement approved by the City Council the infrastructure Owner is required to construct pursuant to this condition/stipulation of approval shall be completed prior to the issuance of any Certificate of Completion, Temporary Certificate of Completion or Certificate of Completion for any structure within the Property except for model homes.

SECTION 6. 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 7. 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. 22-21," declared a public record by Resolution 2023-2344, 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 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.

SECTION 11. 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 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