

ORDINANCE NO. 2023-1598

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, DECLARING PUBLIC RECORDS AND CONDITIONALLY REZONING APPROXIMATELY 26.4 ACRES OF LAND LOCATED APPROXIMATELY 1,200 FEET WEST OF THE INTERSECTION OF SOUTH COTTON LANE AND MC-85, FROM PAD (PLANNED AREA DEVELOPMENT) TO THE I-2 (GENERAL INDUSTRIAL) ZONING DISTRICT WITH A PAD (PLANNED AREA DEVELOPMENT) OVERLAY, 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 property subject to this Ordinance consists of approximately 26.4 acres generally located approximately 1,200 feet west of the intersection of South Cotton Lane on the north side of MC-85, as more particularly described in that certain document titled "Description for Rezoning of A.P.N. 502-49-020P" which is declared a public record herein and which is referred to and made a part hereof as if fully set forth in this Ordinance (the "Property"); and

WHEREAS, the Property is currently zoned PAD (Planned Area Development) pursuant to Ordinance 2018-1408 in which the Goodyear City Council conditionally approved the rezoning of 636.73 acres of property general located south of Lower Buckeye Road and east of Citrus Road from PAD and consolidated other previous rezonings into the new PAD and changed this parcel from Commercial to Industrial.

WHEREAS, the General Plan Land Use Plan designates the Property as Business & Commerce and Industrial, which provides areas for the growth and development of Goodyear's economic base; and

WHEREAS, this request is to rezone the Property from PAD (Planned Area Development) to I-2 (General Industrial) with a PAD (Planned Area Development) overlay for the development of this site; and

WHEREAS, this rezoning request is consistent with the designation of the Property in the General Plan as Business & Commerce and Industrial and will not adversely impact the surrounding area; and

WHEREAS, a rezoning request requires review by the Planning and Zoning Commission and final decision by the City Council through the public hearing process, and to be approved, a rezoning request must be found in conformance with the General Plan and to not adversely impact the surrounding area as outlined in the Zoning Ordinance; and

WHEREAS, public notice that this rezoning request was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on December 6, 2023, appeared in the Arizona Republic Southwest Valley edition on November 17, 2023; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on December 6, 2023, to consider the rezoning of the Property, and the Commission voted (X-X) to recommend approval the proposed rezoning; and

WHEREAS, public notice that this rezoning request is to be considered and reviewed at a public hearing held before the City Council on December 18, 2023, appeared in the Arizona Republic Southwest Valley edition on November 17, 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 of Goodyear;

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

SECTION 1 DECLARATION OF PUBLIC RECORDS

That certain document titled “Official Supplementary Zoning Map No. 23-11”, a copy of which is attached hereto as Exhibit A, is hereby declared a public record and incorporated herein by this reference.

That certain document titled “Description for Rezoning of A.P.MN. 502-49-020P””, a copy of which is attached hereto as Exhibit B, is hereby declared a public record and incorporated herein by this reference.

That certain document titled ““Logistics 85 PAD Regulatory Standards Book”, dated November 3, 2023, a copy of which is attached hereto as Exhibit C is hereby declared a public record and incorporated herein by this reference.

Either three paper copies or one paper copy and one electronic copy maintained in compliance with section A.R.S 44-7041 of each of the aforementioned documents being declared public records herein are ordered to remain on file with the City Clerk and to be available for public use and inspection during regular business hours.

SECTION 2. DESCRIPTION OF THE PROPERTY BEING REZONED

This Ordinance No. 2023-1598 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located approximately 1,200 feet west of the intersection of South Cotton Lane on the north side of MC-, as more particularly described in that certain document titled “Descriptioin for Rezoning of A.P.MN. 502-49-020P” attached hereto as Exhibit B and declared a public record herein, which is referred to and made a part hereof as if fully set forth in this Ordinance (the “Property”); and

SECTION 3. REZONING

The Property is conditionally rezoned from the PAD (Planned Area Developoment) Zoning District to I-2 (General Industrial) Zoning District with a PAD (Planned Area Development) Overlay.

SECTION 4. CONDITIONS OF APPROVAL/STIPULATIONS

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

1. The Property shall be developed in accordance with the Permitted Uses and Development Standards applicable to the I-2 (General Industrial) Zoning District except as modified by that certain document titled "Logistics 85 PAD Regulatory Standards Book", dated November 3, 2023 attached hereto as Exhibit C and declared a public record herein, which is referred to and made a part hereof as if fully set forth in this Ordinance and except as further modified by the Conditions of Approval/Stipulations set forth herein.
2. A landscape buffer of at least 30-feet wide shall be installed along MC85 and shall be entirely landscaped except for necessary driveways and walkways needed to for ingress and egress from MC85. A minimum of two continuous offset rows of 24-inch box trees shall be planted within the landscape buffer. Placement of trees shall be planned to maximize their screening potential and visibility of the trees.
3. Loading, delivery, roll-up/dock doors, and parking of truck-trailers front MC85 shall comply with the following requirements:
 - a. Loading, delivery, roll-up/dock doors and truck trailer parking for such areas shall be screened from public view with a combination of a two-foot high berm and six-foot high wall, or an eight-foot high wall. Either wall is to be constructed of brick, slump block, or masonry with a stucco, mortar wash finish, or a similar finish, and with an architecturally enhanced design that complements the building.
 - b. Gates visible to the public shall be wrought iron or other metal with an enhanced architectural design that fully screens the area behind said gate.
4. Except as modified by the PAD OVERLAY or the stipulations herein, development of the Property shall comply with all applicable provisions of the Goodyear Zoning Ordinance, including, but not limited to the applicable requirements in Article 9 governing development within the vicinity of federal and state freeways, highways and expressways and the requirements in Article 5-1-4-G of the Goodyear Zoning Ordinance that requires all temporary and permanent retention/ stormwater basins be entirely landscaped and irrigated.
5. 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. This includes, but is not limited to, approvals and/or easements that may be needed from Maricopa County Department of Transportation, Buckeye Irrigation District, and the Flood Control District of Maricopa County. All required

approvals and easements shall be in a form acceptable to the City Engineer or his/her designee; and

6. 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 by separate administrative action, 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. 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 including improvements identified in the approved Water and Sewer Report(s) that are to be submitted pursuant to Stipulation 17 below ; and
8. 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 permit for work within the Property, whichever is earlier; and,
9. Owner shall dedicate to the city, 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, 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 for 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

10. Owner shall dedicate, at no cost to the City, any and all additional right-of-way required by Maricopa County Department of Transportation (“MCDOT”) along the portion of the Property fronting MC85 including, but not limited to, dedicating right of way along the property frontage determined by MCDOT as being required for an ultimate half street right-of-way for the north half of the section of MC85 along the frontage of the Property and any and all additional right-of-way determined by MCDOT as being required for the infrastructure identified in any approved Traffic Impact Analysis for which Owner is required to construct. The dedications required herein shall be in fee, lien free, and unencumbered except as otherwise approved by MCDOT or County Board of Supervisors; and
11. Owner shall obtain all approvals and permits from the Maricopa County Department of Transportation required for proposed improvements and points of access along MC-85; including but not limited to dedicating additional right of way along the property frontage for an ultimate half street right-of-way; and
12. Owner shall, at no cost to the city, design and construct all improvements required for the completion of the full half-street improvements required by MCDOT for a Principal Arterial per the MCDOT Major Streets and Routes Plan for the section of MC-85 along the southern boundary of the Property (the “MC-85 Improvements”). The MC-85 Improvements shall be completed prior to the issuance of any Certificate of Completion, Temporary Certificate of Completion, Temporary Certificate of Occupancy, or Certificate of Occupancy for any structure within the Property unless modified by a written phasing plan approved by the City Engineer or his/her designee or a development agreement approved by the City Council.
13. Prior to issuance of any permit for any work within the Property, Owner shall dedicate to the city, at no cost to the city, a 10-foot public utility easement (“PUE”) along the MC-85 frontage. The easement shall be reviewed and approved by the City Attorney or his designee; and

14. 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
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, and all other federal, state and locals laws, ordinances, rules, regulations, standards, and policies applicable to the development of the Property (collectively the "Development Regulations"). The references to specific Development Regulations, does not relieve Owner of complying with all other applicable Development Regulations, even those Development Regulations that address the same matters set forth herein; and
16. Owner shall, as determined by MCDOT, construct or remit an in-lieu payment towards the cost of a full traffic signal (all four legs) at the intersection of Access A and MC-85 as identified in any Traffic Impact Analysis approved by the City and MCDOT for the Property; and
17. 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 ("TIA"), 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 with the first preliminary plat, and/or site plan(s), and/or final plat(s) submitted for the development of the Property (collectively "Development Applications") as required in all applicable development regulations, including the City of Goodyear Engineering Design Standards and Policies Manual and shall be approved by the City Engineer or his/her designee and all other governmental agencies whose approval is required prior to the approval of the applicable Development Application.

- a. The Water and Sewer Analysis Reports submitted with the application for rezoning are not approved. The Water and Sewer Report(s) that are to be submitted pursuant to the requirements set forth above shall comply with all applicable requirements set forth in the Engineering Design Standards and Policies Manual and shall include an analysis of the existing conditions of the Lakin Park Lift Station verifying that the Lakin Park Lift Station can, without modification, adequately convey the additional proposed flows generated by the development of Property, the flows for existing development, and the flows from developments who have approved Water and Sewer Reports that contemplate the delivery of wastewater flows through the Lakin Park Lift Station or identifying the modifications to the Lakin Park Lift Station required to accommodate such flows. Owner shall, at Owner's sole cost, construct all infrastructure improvements, including any required modifications to the Lakin Park Lift Station, identified in the approved Water and Sewer Report(s) as being needed to support the development of the Property.
 - b. The TIA submitted with the application for rezoning is not approved. The TIA(s) that are to be submitted pursuant to the requirements set forth above shall comply with all applicable requirements set forth in the Engineering Design Standards and Policies Manual and applicable requirements of MCDOT and approved by the City Engineer or his/her designee and by MCDOT and shall reflect traffic counts to be accounted for in TIA(s) as of the date the Development Application is approved. The Traffic Impact Analysis shall identify all infrastructure required to accommodate the additional trips generated by the development of Property as rezoned, the location of all access points from the adjacent public rights-of-way to the Property. Owner shall, at Owner's sole cost all infrastructure identified in all approved TIA(s) as being needed to support the development of the Property.
18. 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
19. If any of the infrastructure improvements or any portion of the infrastructure improvements Owner is required to design and construct pursuant to the terms of this Ordinance have been constructed, are being constructed, or are to be constructed by the City, Owner shall remit a 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 prior to or concurrent with the recordation of a final plat triggering Owner's obligation to design and construct the infrastructure improvements or the issuance of a permit for any work within the Property, whichever is earlier.

SECTION 4. AMENDMENT OF ZONING MAP

The Zoning Map of the City of Goodyear is hereby amended to reflect the rezoning of the Property provided for herein by that certain document titled "Official Supplementary Zoning Map No. 23-01" attached hereto as Exhibit A and declared a public record herein, which is referred to and made a part hereof as if fully set forth in this Ordinance.

SECTION 5. ABRIDGEMENT 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. 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 7. SEVERABILITY

If any provision 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 8. EFFECTIVE DATE

This Ordinance shall become effective as prescribed by law.

SECTION 9. 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 10. 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