

ORDINANCE NO. 2024-1599

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 137.77 GROSS ACRES LOCATED AT THE NORTHEAST CORNER OF VAN BUREN STREET AND LITCHFIELD ROAD TO PALM VALLEY CROSSING 5TH AMENDED AND RESTATED PLANNED AREA DEVELOPMENT; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR NON-ABRIDGMENT; PROVIDING FOR CORRECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PENALTIES; AND DIRECTING THE CITY CLERK TO RECORD A COPY OF THIS ORDINANCE.

WHEREAS, the property subject to this ordinance is located at the northeast corner of Litchfield and Van Buren, and is currently known as Palm Valley Crossing;

WHEREAS, the property was first rezoned as a PAD by the City Council on March 28, 1995, with the adoption of Ordinance No. 95-523, which adopted the Palm Valley Metroplex PAD; and

WHEREAS, the PAD zoning on the property has been repeatedly modified since the adoption of Ordinance No. 95-523, and the name of the PAD zoning was subsequently changed to Palm Valley Crossing, which is the name of the current PAD and which is used throughout this Ordinance; and

WHEREAS, on November 22, 2004, the City Council, adopted Ordinance No. 04-924 which Amended the Palm Valley Crossing PAD to allow the development of Palm Gate Storage (located on Van Buren Road west of Litchfield Road); this amendment effectively removed this property from the Palm Valley Crossing PAD.

WHEREAS, the City Council Adopted Ordinance No. 07-1058 on February 2, 2007, which modified standards on Lots 6-13, 15, 18-20 and parts of Lot 21; and,

WHEREAS, the remaining portions of the property within the Palm Valley Crossing PAD located south and west of Litchfield Road and Auto Drive were removed from the Palm Valley Crossing PAD by Ordinance 2008-1153 adopted by Council on December 14, 2008, which rezoned this property to the PAD zoning district and adopted the with the Goodyear Palms Plaza Final PAD; and

WHEREAS, on July 11, 2011, the City Council adopted Ordinance No. 11-1244 which modified standards on Lots 1-4, 5a, 5b, 5c, 11, 15a, 15b, 15c and 16 and adopted an amended PAD; and,

WHEREAS, on July 19, 2021, the City Council adopted Ordinance No. 2021-1510 which modified standards on Lot 19 to allow the added use of an indoor shooting range on Lot 19; and,

WHEREAS, the purpose of the proposed rezoning is to amend and restate the Palm Valley Crossing Planned Area Development to incorporate the various PAD amendments adopted by Council into one document, to modify the zoning designation of Lot 3 (defined below) in the Planned Area Development from Automotive Related Commercial and General Commercial (ARC/C-2) to Automotive Related Commercial and General Commercial and Service Commercial/Commerce (ARC/C-2 and SC), and to resolve inconsistencies created by the prior adoption of land use maps that referred to portions of the property to be developed for commercial

uses as Regional Shopping Center and Retail and the lack of development standards for such uses by amending the land use map to identify all of those lots as C-2 (General Commercial) allowing all uses permitted in C-1 (Neighborhood Commercial) and C-2 (General Commercial) to be developed on the lots identified as C-2 subject to the development standards applicable to the C-2 (General Commercial) zoning district in the City of Goodyear Zoning Ordinance; and

WHEREAS, the General Plan Land Use Plan designates the Property as 'Business & Commerce'; and,

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

WHEREAS, City staff finds that the proposed amendment will not adversely impact the surrounding area the uses proposed on this site are currently allowed elsewhere within the property; and,

WHEREAS, a request to rezone property requires public review by the Planning and Zoning Commission and public review and approval by the City Council; 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 February 14, 2024, appeared in the Arizona Republic Southwest Valley edition on January 26, 2024; postcards were mailed to adjoining owners on January 19, 2024; and signs were updated on the site to advertise the public hearing on January 26, 2024; and,

WHEREAS, a public hearing was held before the Planning and Zoning Commission on February 14, 2024, to consider the rezoning of the Property, and the Commission voted (XX-XX) to recommend approval / denial of 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 February 26, 2024, appeared in the Arizona Republic Southwest Valley edition on January 26, 2024; postcards were mailed to adjoining owners on January 19, 2024; and signs were updated on the site to advertise the public hearing on January 26, 2024; 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. 23-10", 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 "Legal Description Palm Valley Crossing - Gross," 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 “Legal Description and Exhibit for Lot 3 of the Palm Valley PAD”, a copy of which is attached hereto as Exhibit C, is hereby declared a public record and incorporated herein by this reference.

That certain document titled “Palm Valley Crossing 5th Amended and Restated Planned Area Development”, dated February 2024, a copy of which is attached hereto as Exhibit D 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. 2024-1599 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located approximately at the northeast corner of Litchfield Road and Van Buren Street more particularly described in that certain document titled “Legal Description Palm Valley Crossing - Gross,” attached hereto as Exhibit B and which is declared a public record and incorporated herein by reference in Section 1 of this Ordinance (the “Property”).

SECTION 3. REZONE

The Property is conditionally rezoned from the Planned Area Development (PAD) District to Planned Area Development (PAD) District by the adoption of the Palm Valley Crossing 5th Amended and Restated Planned Area Development (February 2024) attached hereto as Exhibit D (the “5th Amended PAD”) and which is declared a public record and incorporated herein by reference in Section 1 of this Ordinance and the Property shall be developed in conformance with the 5th Amended PAD subject to the conditions of approval set forth below.

SECTION 4. CONDITIONS OF REZONING

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

1. The Property shall be developed in conformance with the 5th Amended PAD subject to and except as modified by: the conditions/stipulations of approval set forth in Ordinance No. 95-523 (on Lots 1-28), the conditions/stipulations of approval set forth in Ordinance No. 07-1058 (on Lots 6-13, 15, 18-20 and parts of Lot 21), the conditions/stipulations of approval set forth in Ordinance No. 11-1244 (on Lots 1-4, 5a, 5b, 5c, 11, 15a, 15b, 15c and 16), the stipulations/conditions of approval set forth in Ordinance No. 2021-1510 (on Lot 19), and as further modified by this Ordinance and the stipulations herein. In the event of any conflict between this Ordinance, and the terms of Ordinance No. 95-523

and/or the terms of Ordinance No. 07-1058 and/or Ordinance No. 11-4664 and/or Ordinance No. 2021-1510, the term of this Ordinance shall apply; and,

2. The Use Permit for a Sign recorded with Ordinance No. 17-1361 shall remain in effect unless subsequently modified, amended or terminated; and,
3. Except as otherwise provided by any of the conditions and stipulations set forth in Section 4 of this Ordinance, the development of the Property shall be in conformance with the Palm Valley Crossing 5th Amended and Restated Planned Area Development (February 2024) attached hereto as Exhibit D, which is declared a public record and incorporated herein by reference in Section 1 of this Ordinance (the “5th Amended PAD”), including the land uses and development standards contained therein; and,
4. The provisions of the City of Goodyear Zoning Ordinance shall apply to the development of the Property except as modified by the 5th Amended PAD as further modified by any conditions and/or stipulations in this Ordinance or in any of the ordinances described in paragraph 1 of Section 4 of this Ordinance; and
5. The following additional stipulations and conditions of approval apply to the portion of the Property identified in the 5th Amended PAD as Lot 3 as more particularly described in Legal Description and Exhibit for Lot 3 of the Palm Valley PAD” attached as Exhibit C (“Lot 3”), which is declared a public record and incorporated herein by reference in Section 1 of this Ordinance:
 - a. Approval of the rezoning does not constitute approval of any site plan for development within Lot 3. All future development of Lot 3 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
 - b. The Property Owner (“Owner”) shall apply to the Arizona Department of Water Resources (ADWR) for the extinguishment of the Type 1 Rights appurtenant to Lot 3 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 Lot 3 or the issuance of any construction permits for work within the Property, whichever is earlier; and
 - c. The references in this Ordinance and the 5th Amended PAD to specific obligations that are addressed in various Development Regulations, which include but are not limited to, the

requirements in the City of Goodyear Engineering Design Standards and Policies Manual (the “EDS&PM”), the City of Goodyear Subdivision Regulations, the City of Goodyear Zoning Ordinance, and Building Codes adopted by the City of Goodyear, does not relieve Owner of complying with all other applicable Development Regulations; and

- d. The development of Lot 3 shall comply with all applicable requirements in EDS&PM, including but not limited to the requirement requirements for refuse enclosures, which shall be consistent with City of Goodyear Standard Detail in the EDS&PM G-3164-1 – Double Refuse Enclosure.
- e. 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; and
- f. A landscape buffer of at least 10-feet wide shall be installed along the entire east and west property lines as required in Ordinance 11-4664. Trees and shrubs shall be installed based on the standards indicated in the City of Goodyear Zoning Ordinance.
- g. All Public Sales Reports for the Property, all final plats and minor land divisions subdividing all or part of the Property shall include the following disclosures:
 - i. The Property is subject to attendant noise, vibrations, dust, and all other effects that may be caused by overflight and by the operation of aircraft landing at or taking off from Luke Air Force Base and or the Phoenix-Goodyear Airport; and

All final plats and minor land divisions subdividing all or part of the Property and all site plans for development within the Property shall include notes setting forth the foregoing requirements; and,

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. 23-10" 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

All exhibits are on file with the City Clerk's Office online at
<https://www.goodyearaz.gov/government/departments/city-clerk-s-office/public-notices>
or at Goodyear City Hall, 1900 N Civic Square, Goodyear, AZ 85395.