

ORDINANCE NO. 2024-1605

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 53.24 GROSS ACRES LOCATED APPROXIMATELY ONE-HALF MILE EAST OF COTTON LANE ON THE SOUTH SIDE OF CAMELBACK ROAD FROM AGRICULTURAL URBAN (AU) TO BUSINESS PARK DISTRICT (BPD); 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, On August 7, 1989, the City Council adopted Ordinance No. 89-284, which annexed the 53.24 acre subject property within a larger 5,519.25 acre annexation and designated the subject property as Agricultural (AG); and,

WHEREAS, on May 7, 2006, the City Council adopted Ordinance No. 2006-0998, conditionally rezoning approximately 262 acres, of which the aforementioned 53.24 property was a part of, for the purpose of establishing the Talaverde Estates Planned Area Development (PAD); and,

WHEREAS, on August 18, 2018, the City Council adopted Ordinance No. 2018-1395 conditionally rezoning approximately 218 acres with 164 acres being conditionally rezoned from PAD to R1-6 and approximately 53 acres being conditionally rezoned from PAD to AU to be known as Abel Ranch; and

WHEREAS, the property rezoned by Ordinance 2018-1395 included the approximately 53.24 acres located south of Camelback Road approximately one-half mile east of Cotton Lane that is subject to this Ordinance (the "Property"), and the Property was zoned AU by Ordinance 2018-1395; and

WHEREAS, the Property is designated as Neighborhoods in the Goodyear 2025 General Plan; and

WHEREAS, by separate action presented prior to the City Council's consideration of this Ordinance, the Council approved Resolution No. 2024-2397 amending the land use designation in the Goodyear 2025 General Plan, for the 53.24-acre Property from 'Neighborhoods' to 'Business and Commerce'; and

WHEREAS, this request is to rezone the Property from Agricultural Urban (AU) to the Business Park District (PBD) to allow for the development of an employment center; and,

WHEREAS, city staff finds that the proposed rezone will not adversely impact the surrounding area as the proposed land uses will allow for the orderly growth and development of business park development and act as a buffer between the planned residential and industrial uses; 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 April 17, 2024, appeared in the Arizona Republic Southwest Valley edition on March 29, 2024; postcards were mailed to adjoining owners on March 22, 2024; and signs were updated on the site to advertise the public hearing on March 25, 2024; and,

WHEREAS, a public hearing was held before the Planning and Zoning Commission on April 17, 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 April 29, 2024, appeared in the Arizona Republic Southwest Valley edition on March 29, 2024; postcards were mailed to adjoining owners on March 22, 2024; and signs were updated on the site to advertise the public hearing on March 25, 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. 24-06", 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 "Zoning Legal Description and Exhibit", a copy of which is attached hereto as Exhibit B, 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. 2024-1605 applies to approximately 53.24 acres located one half mile west of Cotton Lane and south of Camelback Road and legally described in that certain document titled "Zoning Legal Description and Exhibit" attached hereto as Exhibit B and declared a public record herein which is hereby referred to and made a part hereof as if fully set forth in this Ordinance (the "Property").

SECTION 3. REZONE

The Property is conditionally rezoned from the Agricultural Urban (AU) to Business Park District (BPD) and the provisions of the Goodyear Zoning Ordinance shall apply to the development Property except as modified by the conditions of rezoning 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 accordance with the Permitted Uses and Development Standards applicable to the Business Park District (BPD) Zoning District except as otherwise provided in this Ordinance; and,
2. The maximum height of all structures within the Property shall be limited to no more than 40’; and,
3. Except as provided herein, there shall be no-cross access between the Property and the residential development to the west of the Property; and,
 - a. Prior to the issuance of any permit for construction within the Property, Owner shall provide the City, in a form provided by the city attorney or his designee, with a vehicular non-access easement along the western boundary of the Property that prevents any access to or from the Property to or from the property adjacent to the western boundary of the Property, which may be modified by the City, in the City’s sole discretion, to allow emergency vehicle access; and,
 - b. Owner shall construct, at Owner’s sole cost and expense, all improvements identified by the City as being needed to ensure that any access between the Property and the property to the west is limited to emergency vehicles only; and,
4. This property shall be designated as Lighting Zone 2; and ,
 - a. All lighting on the western side of buildings located within 325’ of the western property line shall incorporate pedestrian scaled lighting to be approved during the site plan process; and
5. All development on the subject property shall comply with the City of Goodyear Design Guidelines in effect at the time of development; and,
6. Approval of the rezoning does not constitute approval of any site plan for development within the Property. The conceptual site plan submitted with the application for rezoning is not approved. 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
7. The Traffic Impact Analysis (TIA or TIS) 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 Policies Manual shall be submitted with the first

preliminary plat, site plan or construction documents, whichever is earlier, 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 the public right-of-way to the Property. Unless a written waiver is approved by the City Engineer or his designee, all access points shall comply with all applicable regulations including the requirements in the Engineering Design Standards and Policies Manual; and,

- a. Owner 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, and shall dedicate, at no cost to the City, in fee and free from all encumbrances other than those approved by the City Engineer or his/her designee, 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 or his/her designee; and,
 - b. No access points into or out of the Property have been approved. If access point(s) are approved, and traffic signal(s) required at any of the access points, Owner shall, at Owner's sole cost and expense, the full traffic signal (all legs). Owner shall, dedicate, at no cost to the City, in fee and free from all encumbrances other than those approved by the City Engineer or his/her designee, the property required for construction of all required traffic signals. Owner shall be responsible for acquiring and dedicating to the City, at no cost to the City, in fee and free from all encumbrances other than those approved by the City Engineer or his/her designee, all property located outside the boundaries of the Property needed for the traffic signals Owner is required to construct. All required traffic signals shall be constructed and accepted by the City prior to the issuance of any Certificate of Completion, Temporary Certificate of Occupancy or Certificate of Occupancy for any structure within the Property; and,
8. Owner shall construct full south half-street improvements for W. Camelback Road required for a Major Arterial as set forth in the Engineering Design Standards in effect at the time of construction for the section of W. Camelback Road along the northern boundary of the Property, including, but not limited to, pavement, curb and gutter, one-half median, one-half median landscaping, sidewalks, street frontage landscape and landscape irrigation, and street lighting (the "W. Camelback Road Improvements"). Except as otherwise provided in a written development agreement approved by Council or a written phasing plan approved by the City Engineer or his/her designee, the W. Camelback Road Improvements shall be constructed and accepted by

the City prior to the issuance of any Certificate of Completion, Temporary Certificate of Occupancy or Certificate of Occupancy for any structure within the Property; and,

- a. Notwithstanding the foregoing, at the request of the City Engineer or designee, rather than constructing the median and installing the median landscaping, Property Owner shall remit to the City an in-lieu payment for one-half the cost of a full median and full-median landscaping, for any required median. The in-lieu payment for the median shall be the amount reflected in a cost recovery resolution or ordinance adopted that includes the median and landscaping if the median and landscaping have been completed when the payment is owed, the actual costs of median and landscaping if completed when payment is owed, or, if not constructed, the estimated cost of the improvements as determined by the City Engineer or designee. The in-lieu payment required herein shall be paid prior to the issuance of any construction permits for the construction of the W. Camelback Road Improvements; and,
 - b. Owner shall, at no cost to the city, dedicate, at no cost to the City, in fee and free from all encumbrances other than those approved by the City Engineer or his/her designee, 65-feet of right-of-way for the south half of W. Camelback Road along and adjacent to the northern boundary of the Property required for the construction of W. Camelback Road Improvements. The conveyance shall be made prior to the issuance of any permits for the construction of the W. Camelback Road Improvements or upon the written request of the City Engineer, whichever is earlier; and,
9. Owner shall, at no cost to the City, construct a bus bay along the property frontage, on W. Camelback Road, at the half mile location between N. Cotton Lane and N. Citrus Road. If necessary, Owner shall dedicate, at no cost to the City, in fee and free from all encumbrances other than those approved by the City Engineer or his/her designee, any additional right-of-way needed for the bus bay Owner is required to construct. The bus bay shall be constructed and accepted by the City prior to the issuance of any Certificate of Completion, Temporary Certificate of Occupancy or Certificate of Occupancy for any structure within the Property; and,
10. If all or part of the required W. Camelback Road Improvements have been constructed by the City of Goodyear or by others at the request of the City of Goodyear, Owner shall remit to the City of Goodyear an in-lieu payment for the costs the City of Goodyear or the third party incurred in constructing such improvements and Owner shall construct all remaining required W. Camelback Road Improvements. The payment required hereunder shall be remitted prior to the issuance of any permit from construction within the Property. The remaining W. Camelback Road Improvements, including the bus bay referred to

above, shall be completed prior to the issuance of any Certificate of Completion, Temporary Certificate of Occupancy or Certificate of Occupancy for any structure within the Property; and,

11. Owner shall, at Owner's sole cost and expense, construct all infrastructure improvements identified by the City Engineer or his/her designee as being needed for the city to provide wastewater services to the Property. Prior to the approval of any site plan for the Property, Owner shall obtain approval of an update to the Wastewater Master Plan for Section 23 Improvements prepared by Hilgart Wilson and adopted by Resolution 2020-2074 of the Goodyear City Council (the "Section 23 Master Wastewater Study") that reflects the changes to the zoning of the Property and that identifies any changes in infrastructure needed as a result of the rezoning of the Property. Owner shall construct the applicable infrastructure improvements identified in the Section 23 Master Wastewater Study as amended, including the completion of any and all upgrades to the Section 23 Lift Station and associated infrastructure that may be required because of any increased wastewater generation caused by the rezoning of the Property (the "Section 23 Lift Station Upgrades"). The Section 23 Lift Station Upgrades shall adequately convey the additional proposed flows generated by the development of Property as rezoned consistent with all applicable Development Regulations, including requirements in the Engineering Design Standards and Policies Manual in effect at the time of development. If the actual wastewater generated from the Property exceed the amounts reflected in the update of the Section 23 Wastewater Master Plan, Owner shall, at Owner's sole cost be responsible for making any additional improvements required; and,
12. Portions of the Property may be located within the FEMA FIRM Map 04013C1670L dated October 16, 2013. If alterations of the Floodplain are required for the development of the Property, a CLOMR shall be submitted to the City Engineer prior to or concurrent with the submittal of the first site plan or first preliminary plat for the development of the Property. A CLOMR shall be submitted to and approved by the City Engineer or his/her designee prior to submittal of any final plat and/or civil construction drawings for development within the floodplain unless a CLOMR is not required as determined by the City Engineer, in which case Owner may proceed directly to LOMR which shall be submitted and approved by the City Engineer or his/her designee before the issuance of construction permits for work within the floodplain; 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 the City, and Engineering Design Standards and Policy Manual in effect at the time of development; 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 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 at no cost to the city and lien free and free from all encumbrances other than those approved by the City Engineer or his/her designee. The dedications herein shall be made when required by applicable development regulations 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 locals laws, ordinances, rules, regulations, standards, and policies applicable to the development of the Property.

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. 24-06" 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.