

ORDINANCE NO. 15-1321

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, ARIZONA, CONDITIONALLY REZONING 59.1 ACRES FROM THE PRELIMINARY PLANNED AREA DEVELOPMENT (PAD) DISTRICT TO THE PRELIMINARY PLANNED AREA DEVELOPMENT (PAD) DISTRICT AND REZONING 118.9 ACRES FROM THE FINAL PLANNED AREA DEVELOPMENT (PAD) DISTRICT TO THE FINAL PLANNED AREA DEVELOPMENT (PAD) DISTRICT GENERALLY LOCATED SOUTHEAST OF INTERSTATE 10 AND ESTRELLA PARKWAY AND ADOPTING THE ESTRELLA COMMONS PAD DATED MARCH 13, 2015 WITH MODIFIED RESIDENTIAL DEVELOPMENT STANDARDS TO GOVERN DEVELOPMENT OF THE PROPERTY; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Subject Property (or the “Property”) consists of 178-acres currently zoned Preliminary and Final Planned Area (PAD) District which is generally located south of Interstate 10 and east of Estrella Parkway, and is legally described in Exhibit “A” and shown on the supplementary zoning map attached hereto as Exhibit “B”; and,

WHEREAS, the requested rezoning of the Property (Case No. 12-200-00001) would designate 59.1-acres as Preliminary Planned Area Development (PAD) District for the development of commercial and mixed-use uses known as “the District” and would designate 118.9 acres as Final Planned Area Development (PAD) for the development of a 16.1-acre multi-family site and the development of 365 single family residential dwelling units on 102-acres with minimum lot sizes of 5,750 to 8,750 square feet, subject to compliance with the modified development standards of the proposed Estrella Commons PAD, dated March 13, 2015; and,

WHEREAS, the proposed Estrella Commons PAD, dated March 13, 2015, contains defined Development Standards, Design Guidelines for site design and building architecture and conceptual site design, landscape and other plans that will serve to guide future development of the Property; and,

WHEREAS, the proposed Estrella Commons PAD, dated March 13, 2015, is consistent with stated objectives for Planned Area Development zoning as contained in the City of Goodyear Zoning Ordinance and with the Goodyear 2025 General Plan; and,

WHEREAS, on March 18, 2015, in the manner provided by law, the City of Goodyear Planning and Zoning Commission held a public hearing on Case No. 12-200-00001 for the purpose of considering this rezoning request; and,

WHEREAS, due and proper notice of such public hearing before the City of Goodyear Planning and Zoning Commission was given in the time, form, substance and manner provided by law, including publication of such notice in the ARIZONA REPUBLIC SOUTHWEST EDITION on January 30, 2015; and,

WHEREAS, based on the information submitted by the applicant and the review conducted by City staff, which was provided to the Planning and Zoning Commission for its consideration at said public hearing, the Planning and Zoning Commission found that the proposed Rezone was appropriate at the location proposed and in the manner proposed and would not be detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare; and,

WHEREAS, the City of Goodyear Planning and Zoning Commission has recommended to the Mayor and City Council of the City of Goodyear, Arizona, that the proposed Rezone, as aforesaid, be approved subject to certain stipulations; and,

WHEREAS, on April 13, 2015, in the manner provided by law, the City of Goodyear City Council held a public hearing on Case No. 12-200-00001 for the purpose of considering this rezone of the Estrella Commons PAD; and,

WHEREAS, due and proper notice of such public hearing before the City of Goodyear City Council was given in the time, form, substance and manner provided by law, including publication of such notice in the ARIZONA REPUBLIC SOUTHWEST EDITION on March 27, 2015; and,

WHEREAS, based on the information submitted by the applicant and the review conducted by City staff and the recommendation provided by the Planning and Zoning Commission for its consideration at said public hearing, the City Council also found that the proposed Rezone of the Property is appropriate, consistent with the Goodyear 2025 General Plan and will not be detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Goodyear, Arizona, as follows:

SECTION I. DESCRIPTION OF THE PROPERTY BEING REZONED. This Ordinance No. 15-1321 applies to the property described in Exhibit “A” attached hereto (the “Property”).

SECTION II. REZONING. The Property described Exhibit “A” attached hereto is hereby conditionally rezoned from the Preliminary and Final Planned Area Development (PAD) District to the Preliminary Planned Area District for 59.1 acres identified as the “District” within the Estrella Commons Preliminary and Final PAD Development Plan dated March 13, 2015 and the Final Planned Area Development (PAD) District for 118.9 acres identified as SFR50, SFR60, SFR55, SFR70 and MFR within the Estrella Commons Preliminary and Final PAD Development Plan dated March 13, 2015, subject to the following stipulations:

1. Compliance with the development concepts and standards contained in the Estrella Commons Preliminary and Final PAD Development Plan, dated March 13, 2015, as amended by any stipulations contained herein;
2. The Development Services Director, or his designee, may suspend issuance of building or construction permits for the Estrella Commons project for the failure of the property owner,

developer, HOA, or builder to comply with this Ordinance, including the stipulations herein, the Zoning Ordinance, the City Code, the Goodyear Design Guidelines, the Engineering Design Standards and Policies Manual and/or and other rule, regulation, standards, or law applicable to the development of Estrella Commons until such violation is cured;

3. This submittal includes preliminary plat level of detail. The preliminary plat level of detail is not approved with the rezone; this includes but not limited to the preliminary sewer, water, and drainage designs, including the statements as to the water and sewer lines that will serve the Property and the existence of water and sewer capacity, phasing plans, grading and drainage plans, and circulation plans; further comments for such level of detail may be forthcoming during the preliminary plat stage of development;
4. The “District Development Standards & Uses” set forth in Exhibit J, which are to the proposed development standards for the preliminary PAD portion of the site are not approved with this rezone. The District shall be subject to the Central Business District (CBD) zoning ordinance criteria unless and until a final PAD is approved for the subject property;
5. This development is responsible for 50% of the cost to install the traffic signals at the intersection of Estrella Parkway & Roosevelt Street, further clarified by the letter from the City of Goodyear dated March 4, 2008, included as Exhibit C. If the traffic signal is warranted when the first building permit for development within the Property is pulled the traffic signal shall be constructed in connection with the commencement of vertical construction, otherwise an in-lieu payment shall be collected for 50% of the cost the traffic signal as estimated by the Director of Engineering or his/her designee as a condition of issuing the first building permit within the Property;
6. This Property is responsible for a portion of the cost of the adjacent Van Buren Street improvements in the amount of \$64,404.99 as established by the City cost recovery Ordinance 06-1090. In addition the development is responsible for the proportionate share of the cost of improvements that have been constructed that benefit Parcel APN 500-04-971 as established by Cost Recovery Resolution 04-934, which shall be paid prior to the issuance of any civil construction permits for the property. These costs shall be paid prior to the issuance of any civil construction permit for the property;
7. All utilities within and abutting the subject property, including cable television, shall be placed underground, with the exception of 69 kV or larger electric lines. This shall be shown on the construction plans submitted with the final plat, noted on the final plat, and completed as each phase is developed, prior to the issuance of the first Certificate of Occupancy in such phase;
8. All retention areas, drainage courses and conveyances within the single family portion of the development shall be owned and maintained by the Estrella Commons Homeowner’s Association (HOA) and such shall be noted on the final plat;

9. Turf shall not be used in landscaped areas or retention areas within the development and such shall be noted on the final plat;
10. Parks shall be in conformance with the City's Parks, Recreation, Trails, and Open Space Master Plan;
11. The developer, property owner, successors and/or assigns shall be responsible for all off-site improvements necessary to provide access to the development;
12. The developer, property owner, successors and/or assigns shall be responsible for all on-site and off-site water and sewer facilities necessary to provide service to this property and shall provide a detailed analysis to demonstrate that there is adequate capacity available at the time a preliminary plat and final plat are considered for approval and be responsible for making any improvements necessary to provide such capacity and facilities;
13. The developer, property owner, successors and/or assigns shall provide for a waiver agreement which shall run with the land for each initial homebuyer to sign and shall include the following statement in the waiver agreement: "Estrella Commons may be subject to attendant noise, vibrations, dust, and all other effects that may be caused by overflights and by the operation of aircraft landing at or taking off from Luke Air Force Base and/or the Phoenix-Goodyear Airport. The Buyer does release and discharge the City of Goodyear, the Owner, Developer and Homebuilder from any liability for any and all claims for future damages and complaints of any kind to persons or property that may arise at any time in the future from the operation of such aircraft near and over the area;"
14. The Public Sales Report and final plat shall include a statement that "Estrella Commons may be subject to attendant noise, vibrations, dust, and all other effects that may be caused by overflights and by the operation of aircraft landing at or taking off from Luke Air Force Base and/or the Phoenix-Goodyear Airport;"
15. The Public Sales Report and final plat shall include a statement that Estrella Commons is adjacent to land designated for development as commercial and /or multi-family uses and may be subject to potential noise intrusion, vibrations, dust, and all other effects that may be associated with such uses. The developer or successor shall provide for a waiver agreement, which shall run with the land, for each initial homebuyer to sign, and shall include the following statement in the waiver agreement, "Estrella Commons is adjacent to land designated for development as commercial and /or multi-family uses and may be subject to potential noise intrusion, vibrations, dust, and all other effects that may be associated with such uses. The Buyer does release and discharge the City of Goodyear, the Owner, Developer, and the Homebuilder from any liability from any claims for future damages to persons or property, or complaints of any kind, that may arise at any time in the future from the development of such property with commercial and /or multi-family uses."

16. The Public Sales Report and final plat shall include a statement that “Estrella Commons is in close proximity to agricultural uses and may be subject to attendant noise, dust, and odors associated with such uses;”
17. The Public Sales Report and final plat shall include a statement that Estrella Commons is in proximity to Interstate 10 and may be subject to potential noise intrusion, vibrations, dust, and all other effects that may be caused by said roadway. The developer, property owner, successors and/or assigns shall provide for a waiver agreement which shall run with the land, for each initial homebuyer to sign, and shall include the following statement in the waiver agreement: “Estrella Commons is in close proximity to the Interstate 10 (I-10) and may be subject to potential noise intrusion, vibrations, dust, and all other effects that may be caused by said roadway. Buyer does release and discharge the City of Goodyear, the Owner, Developer and Homebuilder from any liability from any claims for future damages to persons or property or complaints of any kind that may arise at any time in the future from the operation of Interstate 10 (I-10).
18. For any single-family residential land uses within the PAD, the developer shall submit a copy of the legal documents pertaining to the establishment of a Homeowners Association and any restrictive covenants associated with the proposed development for City Staff review and comment prior to approval of any final plat for residential development;
19. Single-family detached dwelling units with the same elevation or color scheme within the Estrella Commons PAD shall not be placed side-by-side or across the street from each other, unless the elevation is fundamentally different as determined by the Development Services Director, or his designee;
20. The Developer shall de-emphasize the garage element of all dwelling units by using techniques such as front porches and livable areas of the home that project forward the garage, side entry or recessed garages, or other design elements acceptable to the Development Services Director, or his designee;
21. Retail builders (single family and multi-family) within Estrella Commons shall provide for a total wall assembly with a minimum thermal resistance (*R*-value) of 19 and shall demonstrate this with the submission of standard building plans to be reviewed and approved by City staff which shall specify the use of 2”x6” construction or acceptable equivalent for outer walls of homes. The City shall review the exterior house wall construction standards with respect to noise abatement to ensure that the 2”x6” construction standard is maintained;
22. All single family residences shall have front yard landscaping installed within 60 days of issuance of the Certificate of Occupancy for that dwelling. The CC&Rs shall contain language reflecting this requirement and providing a mechanism for the developer to install the front yard landscaping in the event the Homeowner fails to install said landscaping within the 60 day time period;

23. No more than three two-story single-family detached homes shall be permitted side-by-side;
24. All open space areas, trails, and other community amenities shall be privately owned and maintained by the Estrella Commons Homeowners Association (HOA), and a note be placed on each Final Plat indicating HOA ownership and maintenance responsibilities of these tracts;
25. Except as modified by this PAD, development of the subject property shall adhere to the City Center Gateway Overlay District Ordinance as deemed acceptable by City staff through the Site Plan Review process;
26. The Developer shall improve all tot lots within the project with an approved shade canopy over the play equipment;
27. The Developer shall provide pedestrian scale security lighting for all trails and active recreational areas within the project;
28. All hardscape, entry monument, and wall plan details within the Final PAD Development Plan are conceptual in nature and are not approved by virtue of zoning. Separate review and approval by the City of Goodyear Development Services Department is required;
29. There shall be a minimum 80-foot landscape buffer between the northern boundary of the property and the rear lot lines of the single family dwelling units. This buffer shall include a meandering community trail constructed in accordance with Engineering Design Standards and shall include 36" box trees spaced 15-feet on center along the entire length of the buffer.
30. A sound wall located on the south side of Interstate 10 acceptable to the City Engineer shall be constructed on the property. The Developer shall submit a sound wall plan detail to be located on the south side of Interstate 10 for City review and approval prior to the approval of a final plat, and such wall shall be constructed prior to issuance of the first Certificate of Occupancy for a residential unit within 500 feet of the Interstate 10 right-of-way excluding model homes;
31. Exhibits in the PAD showing currently anticipated alignments of future streets within the development do not approve the design or any right to construct such future streets, nor does it transfer ownership or maintenance responsibility for the land underlying such street alignments to the City or any other entity. Irrespective of whether future streets within the development will be public or private streets, such streets must be designed in accordance with the City's Standards or as is otherwise approved by the City. Any streets within the development that will be public streets must be dedicated as public street right-of-way through the City's Plat processes or by separate instrument, with maintenance responsibility for a public street(s) remaining with the private property owner until such street(s) is accepted by the City. Any streets within the development that will be private streets shall be conveyed as an HOA owned Tract(s) on a Plat(s)

through the City's Plat processes or by separate instrument to the HOA or other private entity that will be responsible for maintenance of such internal street(s), and documentation establishing responsibility for the maintenance of private internal streets shall be provided to the City prior to the construction of such streets. No private street can be converted to a public street or dedicated to the City without the City's prior approval and acceptance, which may be granted or denied in the City's sole discretion.

32. Landscape and other open space improvements within a phase of development shall be completed upon issuance of the first Certificate of Occupancy for development within that phase.

33. A current Phase 1 Environmental Survey designating the City of Goodyear as the named party to whom such survey is delivered and to whom such certification is made, together with any additional environmental surveys which the Director of Engineering or designee deems necessary dependent upon the contents of the Phase 1 survey. Such survey shall cover publicly dedicated rights-of-way, easements or other parcels of land dedicated to the public and shall be submitted with final plat of site plan that includes such dedicated property interests. Any environmental conditions identified by the Phase I Environmental Survey and/or follow-up surveys shall be addressed and remediated to the satisfaction of the Director of Engineering or his/her designee prior to approve of the applicable final plat or site plan.

SECTION III. AMENDMENT OF ZONING MAP. The Zoning Map of the City of Goodyear is hereby amended to reflect the rezoning of Estrella Commons PAD by the adoption of a Supplementary Zoning Map 12-04A, a copy of which is attached hereto as Exhibit "B" 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 IV. ABRIDGMENT OF OTHER LAWS. Except where expressly provided nothing contained herein shall be construed to be an abridgment of any other ordinance regulation or requirement of the City of Goodyear.

SECTION V. SEVERABILITY. If any provision of this Ordinance is for any reason held invalid by any court of competent jurisdiction such provision shall be deemed as separate distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION VI. EFFECTIVE DATE. This ordinance shall become effective as prescribed by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Arizona, this ____ day of _____, 20_____.

Georgia Lord, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Maureen Scott, City Clerk

Roric Massey, City Attorney

CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA

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) SS.

County of Maricopa

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I, the undersigned Maureen Scott, being the duly appointed, qualified and acting City Clerk of the City of Goodyear, Maricopa County, Arizona, certify that the foregoing Ordinance No. 15-1321 is a true, correct and accurate copy of Ordinance No. 15-1321, passed and adopted at a regular meeting of the Council of the City of Goodyear, Maricopa County, Arizona, held on the ____ day of _____ 20____, at which a quorum was present and, by a ____ vote, ____ voted in favor of said ordinance.

Given under my hand and sealed this _____ day of _____, 20____.

seal

City Clerk