

ORDINANCE NO. 17-1341

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AMENDING THE FINAL PAD ZONING FOR APPROXIMATELY 311 ACRES GENERALLY LOCATED AT THE NORTHEAST CORNER OF PERRYVILLE ROAD AND BROADWAY ROAD AND COMMONLY KNOWN AS LAS BRISAS PHASE TWO BY ADOPTING THE LAS BRISAS PHASE TWO PLANNED AREA DEVELOPMENT (PAD), DATED MARCH 7, 2017 TO GOVERN THE DEVELOPMENT OF ALL PARCELS WITHIN LAS BRISAS PHASE TWO; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on July 10, 2006, the City Council adopted Ordinance No. 06-1020 rezoning approximately 311 acres and establishing the Las Brisas Phase Two Planned Area Development, dated January 2006, as shown in Exhibit A and legally described in Exhibit B attached hereto (the “Subject Property” or the “Property”); and

WHEREAS, the Las Brisas Phase Two Final PAD allowed for 912 single family residential lots with an overall net density of 3.09 du/ac; and

WHEREAS, on February 11, 2008, the Las Brisas Phase Two Final PAD, dated January 2006, was amended by Ordinance No. 08-1105, subject to stipulations, to rezone 19.35 acres from PAD (C-1) to PAD (General Commercial) as set forth the Las Brisas PAD Amendment dated December 28, 2007; and,

WHEREAS, the Property Owner seeks to amend the PAD Zoning through the adoption of the Las Brisas Phase 2 Final PAD, dated March 7, 2017, which modifies the residential zoning classifications by: eliminating the residential zoning classification for 10,000 square foot minimum residential lots with an eighty (80) foot minimum lot width; establishing a new residential zoning classification for residential lots with a minimum width of fifty (50) feet; adopting development and design standards for this new residential zoning classification; changing the land use designations for Parcels 2B.1, 2B.2, 2B.3 and 2C.5 within the Property; and eliminating the requirement for an equestrian/multi-use trail; and,

WHEREAS, a request to rezone property requires public review and approval by the Planning and Zoning Commission and City Council; and,

WHEREAS, on March 9, 2017, in accordance with the Goodyear Zoning Ordinance Citizen Review section, a neighborhood meeting was held for the purpose of discussing this PAD Amendment; and,

WHEREAS, public notice that this Amendment to the Las Brisas Phase 2 PAD Amendment was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on March 15, 2017, appeared in the Arizona Republic Southwest Valley edition on February 24, 2017; a sign was posted on the Subject Property on February 28, 2017, and postcards were mailed to all adjacent property owners within 500 feet on or about February 23, 2017; and,

WHEREAS, a public hearing was held before the Planning and Zoning Commission on March 15, 2017, and at that meeting the Commission voted to recommend continuing the item to the April 19, 2017 meeting; and,

WHEREAS, a public hearing was held before the Planning and Zoning Commission on April 19, 2017, and at that meeting the Commission voted 6-0 to recommend approval of the proposed rezoning; and,

WHEREAS, public notice that this Amendment to the Las Brisas Phase 2 Final Planned Area Development was to be considered and reviewed at a public hearing held before the City Council on May 8, 2017, appeared in the Arizona Republic Southwest Valley edition on April 21, 2017; a sign was posted on the Subject Property on February 28, 2017 and postcards were mailed to all adjacent property owners within 500 feet on or about April 20, 2017; and,

WHEREAS, the proposed change in land use designation is consistent with the land use designated for the Property as established on the General Plan Land Use Map; and,

WHEREAS, based on the information submitted by the applicant and the review conducted by city staff, city staff finds that the proposed rezoning will not adversely impact the surrounding area as this area is intended for residential development, with a number of properties having already obtained entitlements for residential development and that the proposed PAD Amendment is appropriate on the Property 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, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. PLANNED AREA DEVELOPMENT AMENDMENT

The Final PAD Zoning for the Property, as shown in Exhibit A and more particularly described in Exhibit B attached hereto and incorporated herein is conditionally amended/rezoned by adopting the Las Brisas Phase 2 PAD Amendment, dated March 7, 2017, which document was declared a public record by Resolution 17-1800, three copies of which are on file with the City Clerk of the City of Goodyear, Arizona and which is referred to, adopted and made a part hereof as if fully set forth in this ordinance, to govern the development of the Property, subject to the following stipulations:

1. Compliance with the City of Goodyear Zoning Ordinance, City of Goodyear Design Guidelines Manual, Engineering Design Standards for public works construction and with Maricopa Association of Governments (MAG) standards for public works construction, except as modified by the PAD, the City Engineer, and any Development Agreement;
2. Compliance with the Las Brisas Phase 2 PAD, dated March 7, 2017 and kept on file in the City of Goodyear Development Services;

3. If the Developer fails to comply with any of the stipulations contained in this ordinance, or fails to comply with any other City codes and regulations in the development of Las Brisas Phase 2, then the Development Services Director, or his designee, may suspend issuance of building or construction permits for the Las Brisas Phase 2 project until the Developer cures the item in default;
4. The maximum number of units within the rezoned area shall not exceed 997;
5. The minimum required open space shall be the acreages depicted in the land use summary table in Appendix A "Zoning Exhibit," including providing the 5.2-acre neighborhood park with the development of Parcel 2C.6;
6. The Developer shall comply with the approved West Goodyear Planning Area Master Water, Sewer, and interim Water Reports;
7. The Developer shall provide for the dedication of the following rights-of-way, in form and substance acceptable to the City Engineer, or his designee, prior to or concurrent with recordation of any final plat:
 - a. East half of Perryville Road right-of-way, 65 feet from centerline;
 - b. North half of Broadway Road right-of-way, 55 feet from centerline;
 - c. West half of Citrus Road right-of-way, 55 feet from centerline;
8. The Developer shall construct the half-street improvements for the portion of Dunlap Road adjacent to the development. Until a final resolution is reached regarding the connection of Dunlap Road and 181st Drive, a temporary turnaround will be required at the western termination of Dunlap Road;
9. The rights-of-way for Perryville Road and Broadway Road shall be dedicated and improved along the frontage of the commercial parcel concurrent with the dedication and improvement of those adjoining sections of said roadways. Required improvements will include, though not be limited to, pavement and curb and gutter. Sidewalks and landscaping will be required upon development of the commercial parcel;
10. The development will be responsible for the half-street and half-median improvements along those portions of Citrus Road, Perryville Road and Lower Buckeye Road adjacent to this development. An Engineer's estimate that meets City of Goodyear requirements shall be provided to determine costs for the improvements that are not required to be constructed along with the site's development. The half-streets shall be constructed with the following minimum improvements: three 12-foot travel lanes, one four-foot wide bike lane with curb and gutter (adjacent to development), and one four-foot shoulder (opposite of the development) for a total of 44 feet of pavement. (Note: As Perryville

Road is anticipated to be annexed into the City at a future date this development will be responsible for costs of the half median improvements). All roadway centerlines shall be dimensioned on the final plat;

11. The Developer shall dedicate and construct the full right-of-way improvements for 185th Avenue up to Larkspur Drive and place temporary barriers at the north end of 184th Avenue should Las Brisas Phase One not develop prior to Las Brisas Phase Two;
12. The Developer shall design and construct the proposed gravity sewer line, lift station and force main conveying flows to the City of Goodyear's wastewater treatment plant as part of the Las Brisas Phase Two development;
13. The Public Sales Report and final plat shall include a statement that Las Brisas Phase Two is within the vicinity of a proposed 230 kV overhead electric line planned along the west side of Perryville Road;
14. The following information shall be disclosed in the public sales report and final plat and shall be provided in a separate acknowledgment, which shall run with the land, for each initial homebuyer to sign: "Las Brisas Phase Two is in close proximity to agricultural uses and may therefore be subject to noise, dust, and odors associated with such uses";
15. The following information shall be disclosed in the public sales report and final plat and shall be provided in a separate acknowledgment, which shall run with the land, for each initial homebuyer to sign: "Las Brisas Phase Two is in proximity to the proposed Loop 303 and I-10 Reliever freeways and may be subject to potential noise intrusion, vibrations, dust and all other effects that may be caused by said freeways and construction thereof";
16. The following information shall be disclosed in the public sales report and final plat and shall be provided in a separate acknowledgment, which shall run with the land, for each initial homebuyer to sign: "Las Brisas Phase Two is in proximity to a proposed elementary school site and may therefore be subject to potential noise intrusion, traffic and all other effects associated with such a use";
17. The Developer shall establish a Homeowners Association (HOA) for Las Brisas Phase Two, with said HOA owning and maintaining all open space areas, trails, and other community amenities and maintaining all arterial and collector road rights-of-way landscaping except for arterial median landscaping. A note shall be placed on each final plat indicating HOA ownership and maintenance responsibilities of these tracts;
18. All lots adjacent to internal open space areas shall have rear yard view fences. Those lots that have view fences shall be required to complete their rear yard landscaping within 90 days of the issuance of a Certificate of Occupancy for the dwelling;

19. The Developer shall include a note on the final plat and require each homebuyer to sign an acknowledgment statement accepting maintenance responsibility for the landscaping between the sidewalk and curb in front of their home, and the side yard for homes on corner lots. The CC&Rs for Las Brisas Phase Two shall state that the HOA will enforce maintenance if there in non-compliance with this requirement;
20. The following information shall be disclosed in the public sales report and final plat and shall be provided in a separate acknowledgement, which shall run with the land, for each initial homebuyer to sign: “Portions of Las Brisas Phase Two will be adjacent to property permitted for commercial use and may therefore be subject to potential noise intrusion, traffic and all other effects associated with such a use”; and,
21. The Developer shall cause the installation of two temporary signs – one along Perryville Road and one along Broadway Road – each with a maximum copy area of 32 square feet and a maximum height of eight feet, announcing the future commercial development of Zoning Tract 12, as shown on the Zoning Parcel Exhibit, prior to final plat approval of any residential parcel. Such signs shall be maintained by the Developer until such time as the commercial property is developed.

SECTION 2. AMENDMENT TO THE ZONING MAP

The Zoning Map of the City of Goodyear is hereby amended to reflect the rezoning set forth in Section 1 of this Ordinance by the adoption of Supplementary Zoning Map 16-08A, a copy of which is attached hereto as Exhibit A, 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 3. 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 4. 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 5. EFFECTIVE DATE

This Ordinance shall become effective as prescribed by law. The provisions of the City of Goodyear Zoning Ordinance being amended by this ordinance shall remain in full force and effect until the effective date of this ordinance.

SECTION 6. 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.

PASSED AND ADOPTED by the Mayor and Council of the city of Goodyear, Maricopa County, 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)
) ss.
County of Maricopa)

I, the undersigned Maureen Scott, being the duly appointed, qualified City Clerk of the city of Goodyear, Maricopa County, Arizona, certify that the foregoing Ordinance No. 17-1341 is a true, correct and accurate copy of Ordinance No. 17-1341, 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