

ORDINANCE NO. 17-1351

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING 53.6 ACRES OF THE PALM VALLEY PHASE II FINAL PLANNED AREA DEVELOPMENT (PAD) ZONING GENERALLY LOCATED AT THE SOUTHWEST CORNER OF PALM VALLEY BOULEVARD AND LITCHFIELD ROAD FROM OPEN SPACE/GOLF COURSE AND MIXED USE COMMERCIAL LAND USES TO THE VISTAS AT PALM VALLEY FINAL PLANNED AREA DEVELOPMENT TO ALLOW DEVELOPMENT OF LOW DENSITY RESIDENTIAL SINGLE FAMILY DETACHED USES AND MEDIUM DENSITY RESIDENTIAL SINGLE FAMILY ATTACHED USES WITH MODIFIED DEVELOPMENT STANDARDS; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR CORRECTIONS, SEVERABILITY, NON-ABRIDGEMENT, AN EFFECTIVE DATE, AND PENALTIES.

WHEREAS, the Subject Property (or the "Property") consists of 53.6 acres generally located west of Litchfield Road between Palm Valley Boulevard on the north and McDowell Road on the south as shown on Supplementary Zoning Map No. 16-05A, attached hereto as Exhibit A and legally described in Exhibit B, attached hereto; and,

WHEREAS, on April 20, 1981, the Town Council of the Town of Goodyear, in the manner prescribed by law, passed and adopted Ordinance No. 81-130 annexing approximately 1,720 acres of property into the town of Goodyear, which included the Property now proposed for rezoning, and zoned such land AG Agricultural District; and,

WHEREAS, on September 12, 1989, the City Council of the City of Goodyear, in the manner prescribed by law, adopted Ordinance No. 89-286 conditionally approving a request (Z-06-89) to rezone 1,475 acres of property generally located between the I-10 Freeway and Thomas Road and between Bullard and Dysart Avenues, which included the Property, from the AG Agricultural District to the Preliminary Planned Area Development (PAD) District for a project known as Litchfield Phase I Final PAD; and,

WHEREAS, on September 12, 1989, the City Council of the City of Goodyear, in the manner prescribed by law, adopted Ordinance No. 89-292 conditionally approving a request (Z-07-89) to rezone said 1,475 acres from the Preliminary Planned Area Development to Final Planned Area Development for the Litchfield Phase I Final PAD, subject to certain stipulations including a time limit requiring commencement of the development prior to one year from the date of the zoning action; and,

WHEREAS, on May 14, 1991, the City Council of the City of Goodyear, in the manner prescribed by law, adopted Ordinance No. 91-328 conditionally extending the time limit for vesting of the zoning (Z-07-89) to October 10, 1991 for that portion of Litchfield Phase I Final PAD consisting of approximately 660 acres located west of Litchfield Road to Bullard Avenue and from the I-10 Freeway north to Thomas Road; and,

vested the zoning for the property east of Litchfield Road and renamed the Project to Palm Valley

WHEREAS, on October 8, 1991, the City Council of the City of Goodyear, in the manner prescribed by law, adopted Ordinance No. 91-443 conditionally approving the vesting of the zoning for that portion of the Litchfield Phase I Final PAD located east of Litchfield Road to Dysart Road and from the I-10 Freeway north to Thomas Road, and extending the time limit for vesting of the zoning (Z-07-89) to October 10, 1992 for that portion of the Litchfield Phase I Final PAD consisting of approximately 660 acres located west of Litchfield Road to Bullard Avenue and from the I-10 Freeway north to Thomas Road; and,

WHEREAS, on November 10, 1992, the City Council of the City of Goodyear, in the manner prescribed by law, adopted Ordinance No. 92-473 conditionally approving the vesting of the zoning (Z-07-89) for that portion of the Litchfield Phase I Final PAD consisting of approximately 660 acres located west of Litchfield Road to Bullard Avenue and from the I-10 Freeway north to Thomas Road; and,

WHEREAS, on or about January 1993 when the first subdivision plats were approved for the Litchfield Phase I Final PAD, the name of the project was changed to Palm Valley Phase I Final PAD for that portion of the Litchfield Phase I Final PAD project located east of Litchfield Road and to Palm Valley Phase II Final PAD for that portion of the project located west of Litchfield Road; and,

WHEREAS, on September 22, 2003, the City Council of the City of Goodyear, in the manner prescribed by law, adopted Ordinance No. 03-873 conditionally approving a request (Z-08-03) to amend 84 acres of the Palm Valley Phase II Final PAD (formerly Litchfield Phase I Final PAD) by rezoning 42 acres at the northeast corner of 145th Avenue and McDowell Road to Medium Density Residential for Camelot at Palm Valley; 24 acres at 14140 W. McDowell Road occupied by the Palm Valley Golf Driving Range to Mixed Use Commercial; two acres located at 2000 N. Litchfield Road to Mixed Use Commercial; and 16 acres located on the north side of Palm Valley Boulevard rezoned to Medium Density Residential for the Cottages at Palm Valley; and,

WHEREAS, the current zoning of the Property is Golf Course/Open Space on the northerly 32.6 acres (referred to as Parcel A) and Mixed Use Commercial on the southerly 20.7 acres (referred to as Parcel B) pursuant to the Palm Valley Phase II Final PAD (formerly Litchfield Phase I Final PAD), as amended; and,

WHEREAS, this request is to change the zoning on 53.6 acres of the Palm Valley Phase II Final PAD (formerly Litchfield Phase I Final PAD) from its current land use designations of Golf Course/Open Space and Mixed Use Commercial to a new Planned Area Development for a project to be known as Vistas at Palm Valley to allow the development of 86 single family detached homes, one duplex and one triplex in Parcel A and 106 attached single family units in duplex and triplex structures in Parcel B for a total of 197 units, in accordance with the design and development standards established in the Vistas at Palm Valley Final PAD, dated July 27, 2017, as amended by any stipulations contained herein; and,

WHEREAS, the Goodyear 2025 General Plan designates the area within which the Property is located as Neighborhoods, which is a land use category that provides areas for the growth and development of neighborhoods with a wide range of densities and housing products at appropriate intensities and locations to meet the needs of existing and future residents; and,

WHEREAS, any request to change a property from one zoning district to another must comply with the Citizen Review Process as prescribed in the Zoning Ordinance and requires a neighborhood meeting and public review and approval by the Planning and Zoning Commission and City Council; and,

WHEREAS, a formal neighborhood meeting for public review and comment was conducted by the applicant on May 2, 2017 for which notice was published in the Arizona Republic Southwest Valley edition on April 14, 2017, and postcards were mailed to the owners of adjacent property within 500 feet on April 17, 2017; and,

WHEREAS, public notice that this proposed rezoning for the Villas at Palm Valley Final PAD was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on May 17, 2017 appeared in the Arizona Republic Southwest Valley edition on April 28, 2017; postcards were mailed to the owners of adjacent property within 500 feet on April 28, 2017; and a sign was posted on the property by May 5, 2017; and,

WHEREAS, prior to the May 17, 2017 public hearing before the Planning and Zoning Commission, the applicant requested that the proposed rezoning be postponed to the next regular Planning and Zoning Commission meeting to allow more time for the applicant to review and revise the proposal; and,

WHEREAS, public notice that the public hearing to consider the proposed rezoning for the Vistas at Palm Valley Final PAD was rescheduled to the June 14, 2017 Planning and Zoning Commission appeared in the Arizona Republic Southwest Valley edition on May 26, 2017; postcards were mailed to the owners of adjacent property within 500 feet on May 5, 2017; and the hearing date on the sign posted on the property was revised on May 26, 2017; and,

WHEREAS, a public hearing was held before the Planning and Zoning Commission on June 14, 2017, and due to comments made by the public at that meeting and the lack of the full membership of the Commission, the applicant requested that the Commission postpone consideration of this matter to a future unspecified meeting, subject to publication of notice for such public hearing as provided by law; and,

WHEREAS, public notice, in the form of a legal advertisement and a display ad, stating that the proposed rezoning for the Villas at Palm Valley Final PAD was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on August 9, 2017 appeared in the Arizona Republic Southwest Valley edition on July 21, 2017; a postcard notice of public hearing was mailed to the owners of adjacent property within 500 feet and to those citizens who appeared at the June 14 public hearing on July 21, 2017; and a new sign was posted on the property on July 24, 2017; and,

WHEREAS, based on the information submitted by the applicant and the review conducted by City staff, which were provided to the Planning and Zoning Commission for its consideration at said public hearing, City staff recommended to the Planning and Zoning Commission approval of the request to rezone the Property to the Vistas at Palm Valley Final PAD; and,

WHEREAS, a public hearing was held before the Planning and Zoning Commission on August 9, 2017, and at that meeting the Commission voted _____ to recommend to the Mayor and City Council approval of the proposed rezoning for the Vistas at Palm Valley Final PAD, as aforesaid, subject to certain stipulations; and,

WHEREAS, public notice, in the form of a legal advertisement and a display ad, stating that the proposed rezoning for the Villas at Palm Valley Final PAD was to be considered and reviewed at a public hearing held before the Mayor and City Council on August 28, 2017 appeared in the Arizona Republic Southwest Valley edition on July 21, 2017; a postcard notice of public hearing was mailed to the owners of adjacent property within 500 feet and to those citizens who appeared at the June 14 public hearing also on July 21, 2017; and a new sign was posted on the property on July 24, 2017; and,

WHEREAS, the Mayor and Council of the City of Goodyear 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; and,

WHEREAS, a public hearing was held before the Mayor and City Council on August 28, 2017 at which the City Council found that the proposed rezoning of the Property to change its current land use classifications under the Palm Valley Phase II Final PAD from Golf Course/Open Space and Mixed Use Commercial to the Vistas at Palm Valley Final PAD was consistent with the land use designated for the Property as established on the General Plan Land Use Map; will not be detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare; and that 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.

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

SECTION 1. DESCRIPTION OF THE PROPERTY BEING REZONED

This Ordinance No. 17-1351 applies to the property described as a portion of Section 33, Township 2 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, as shown on Supplementary Zoning Map No. 16-05A, attached hereto as Exhibit A and as legally described in Exhibit B, attached hereto.

SECTION 2. REZONING

The Property described in Section 1 is hereby conditionally rezoned from the Palm Valley Phase II Final Planned Area Development (PAD) zoning district to

the Vistas at Palm Valley Final Planned Area Development (PAD) zoning district, by adopting the Vistas at Palm Valley Final Planned Area Development dated July 27, 2017, which document was declared a public record by Resolution 17-1803, three copies of which are on file with the City Clerk of the City of Goodyear, Arizona and which is referred to and made part hereof as if fully set forth in this ordinance.

SECTION 3. STIPULATIONS

1. All development within the Property shall be in substantial conformance with the Vistas at Palm Valley Final Planned Area Development dated July 27, 2017, including the concept plans, development standards and design guidelines contained therein except as otherwise modified by any stipulations contained herein;
2. If the owner/developer fails to comply with any of the stipulations or fails to comply with any other City codes and regulations in the development of the Vistas at Palm Valley, then the Development Services Director, or his designee, may suspend issuance of building or construction permits for the Vistas at Palm Valley project until the owner/developer cures the item in default;
3. All final plats shall include a statement that the property is subject to attendant noise, vibrations 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;
4. The owner/developer shall acknowledge and disclose to any subsequent purchaser or tenant that the subject property is subject to attendant noise, vibrations 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 owner/developer shall provide for a waiver agreement for any subsequent purchaser to sign which shall run with the land and which shall include the following statement: " The subject property is subject to attendant noise, vibrations 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 Purchaser does release and discharge the city of Goodyear, the owner, and developer from any liability from any 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 or over the area;"
5. The owner/developer shall be responsible for an in-lieu payment equal to 16% of the total cost of a traffic signal at intersection of the private driveway to be used by the development and Litchfield Road prior to the issuance of the first building permit. The in-lieu payment shall be based

on the actual cost of the traffic signal if it has already been constructed or upon an engineer's estimate of the probable cost of such signal, which shall be approved by the City Engineer or his/her designee;

6. The owner/developer shall be responsible for constructing a decel lane for southbound traffic on Litchfield Road at its intersection with the private driveway to be used by the development and shall include those improvements in the construction documents for the final plat for Parcel B and construct such improvements prior to the issuance of the first building permit in Parcel B of the project;
7. The owner/developer shall remove the existing poles and netting from the for the golf driving range at such time as the improvements for Parcel B are constructed, except for the three poles upon which wireless communications facilities are mounted;
8. The provisions of the city of Goodyear Zoning Ordinance shall apply unless otherwise modified by this Final PAD, including by way of example, but not limitation, Article 3-5 (Planned Area Development District), Article 6 (Off-street Parking and Loading); Article 7 (Sign Regulations);
9. All open space areas, trails, and other community amenities, including the private streets, shall be privately owned and maintained by a Homeowners Association (HOA);
10. The Open Space land use designation along the east and south property lines of the project adjacent to commercial zoned property shall be a minimum of thirty (30) feet wide to separate the residences within the project from the adjacent commercial uses and planted with a row of trees containing at a minimum fifteen (15) gallon trees spaced twenty (20) feet on center or clustered in equivalent groupings as approved by the Development Services Director;
11. Use of the cart path to access Litchfield Road may be restricted to pedestrians only;
12. The lots identified with an asterisk on Exhibit 3 Preliminary Site Plan shall be limited to single story homes;
13. No more than three two-story homes will be allowed side by side, and three consecutive two-story homes must be followed by a minimum of two single-story homes.
14. All hardscape, entry monument, and wall plan details within the Vistas at Palm Valley Final PAD are conceptual only and will be finalized at

the time of site plan approval, preliminary plat, final plat, and/or sign package review.

15. A revised Traffic Impact Analysis that addresses the City's Traffic Engineer's comments regarding the calculation of Level of Service (LOS) for the intersection of the private driveway and Litchfield Road shall be submitted for review and approval by the City Engineer prior to the approval of a preliminary plat for the property.
16. The pedestrian access ways proposed along the rear lot lines of the triplex lots, as shown on Exhibit 03 "Preliminary Site Plan" and Exhibit 4E "Conceptual Rear Tract Access – Triplex Units," shall be landscaped and maintained by the Home Owners Association in a manner that provides ingress and egress for emergency escape and rescue openings in accordance with International Residential Code requirements. These access ways shall remain open for emergency ingress and egress at all times unless an alternate plan to limit access is first reviewed and approved by the Chief Building Official and determined to meet the intent of the code requirement.
17. Additional striping at the access on Litchfield Road and the forty-four (44) foot private drive shall be provided with all other required on-site and off-site improvements.

SECTION 4. AMENDMENT OF ZONING MAP

The Zoning Map of the City of Goodyear is hereby amended to reflect the rezoning of the Vistas at Palm Valley Final PAD by the adoption of Supplementary Zoning Map 16-05A, 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 5. 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 6. 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 7. SEVERABILITY

If any provision of this Ordinance is for any reason held invalid by any court or 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 8. 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.

SECTION 9. 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.

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

STATE OF ARIZONA)
) ss.
County of Maricopa)

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

City Clerk