

## **ORDINANCE NO. 17-1368**

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY AMENDING THE ESTRELLA COMMONS PLANNED AREA DEVELOPMENT BY REZONING APPROXIMATELY 22.7 ACRES TO FINAL PLANNED AREA DEVELOPMENT TO AMEND THE LAND USE DESIGNATION FOR THE APPROXIMATE 22.7 ACRES TO MULTI-FAMILY RESIDENTIAL; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR NON-ABRIDGMENT; PROVIDING FOR CORRECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PENALTIES.

WHEREAS, the Estrella Commons Planned Area Development (PAD) is an approximate 178 acre planned mixed-use development that includes a range of residential densities, commercial, and office uses generally located between I-10 and Van Buren Street, east of Estrella Parkway, The property being rezoned consists of approximately 22.7 acres within the Estrella Commons PAD and is more particularly described in Exhibit B attached hereto and incorporated herein (the "Property"); and

WHEREAS, the General Plan Land Use Plan shows the Property designated as 'Business & Commerce' and 'Neighborhoods'. The 'Business & Commerce' land use category includes areas for commercial and entertainment uses along with multi-family residential uses. The 'Neighborhoods' land use category provides areas for the growth and development of neighborhoods with a wide range of densities and housing types; and

WHEREAS, on October 23, 2006, the City Council adopted Ordinance No. 06-1033 approving the rezoning of 30 acres of property to the Preliminary PAD zoning district and 150 acres to the Final PAD zoning district to facilitate residential development within a project known as Estrella Commons; and

WHEREAS, on August 27, 2007, the City Council adopted Ordinance No. 07-1083 rezoning eight acres from General Commercial, C-2, to Final PAD. The property was included in the District land use, which allows for a mix of commercial and residential uses. Said Ordinance also amended 1.5 acres of the Final PAD from a Single Family Residential land use to the District land use to allow for additional mixed-use and commercial development; and

WHEREAS, on August 25, 2008, the City Council approved a two-year time extension for the filing of the Final PAD for those portions of Estrella Commons still designated as Preliminary PAD; and

WHEREAS, on June 28, 2010, the City Council adopted Ordinance No. 10-1220 approving an amendment to the Estrella Commons Final PAD that designated a 2.3-acre parcel from a Single Family Residential land use to the District land use; and

WHEREAS, on December 13, 2010, the City Council adopted Ordinance No. 10-1229 approving an additional two-year time extension for the filing of the Final PAD for the 30 acres of property still zoned Preliminary PAD; and

WHEREAS, on April 13, 2015, the City Council adopted Ordinance No. 15-1321 rezoning 118.9 acres to Final PAD and designating said acreage with Single Family Residential and Multi-Family Residential land uses and rezoning 59.1 acres to Preliminary PAD and designating said acreage with the District land use. The Property was included in the 59.1 acres rezoned to Preliminary PAD; and

WHEREAS, the request is to rezone approximately 22.7 acres from Preliminary PAD to Final PAD to change the permitted use on the Property to Multi-Family Residential (MFR) within the Estrella Commons PAD; and

WHEREAS, a request to amend an approved PAD must be processed as a rezoning request, which requires public review and approval by the Planning and Zoning Commission and the City Council. The proposed amendment is in conformance with the General Plan and should not adversely impact the surrounding area; and

WHEREAS, public notice that this amendment to the Estrella Commons PAD was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on September 13, 2017, appeared in the Arizona Republic Southwest Valley edition on August 25, 2017; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on September 13, 2017 to consider an amendment to the Estrella Commons PAD, and the Commission voted (4-1) to recommend approval of the proposed PAD Amendment; and

WHEREAS, public notice that this amendment to the Estrella Commons PAD is to be considered and reviewed at a public hearing held before the City Council on September 25, 2017, appeared in the Arizona Republic Southwest Valley edition on August 25, 2017; 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 health, safety, and welfare;

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. 17-1368 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located on the north side of Van Buren east of Estrella Parkway as shown on Supplementary Zoning Map No. 17-15A, attached hereto as Exhibit A, and as legally described in Exhibit B, attached hereto (the "Property").

SECTION 2. PLANNED AREA DEVELOPMENT AMENDMENT

The Property is hereby conditionally rezoned from the Final Planned Area Development (PAD) zoning district to the Final Planned Area Development

(PAD) zoning district, by adopting the “Estrella Commons Planned Area Development” dated August 9, 2017, which document was declared a public record by Resolution 17-1826, 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

The development of the Property is subject to the following stipulations:

1. Development of the Property shall be in conformance with the “Estrella Commons Planned Area Development” dated August 9, 2017 as it applies to the Property, which is designated as the South Multi-Family Residential Parcel;
2. Except as expressly modified by this Ordinance No. 17-1368, development of the Property shall be in compliance with all stipulations and conditions of approval for the Estrella Commons Planned Area Development as set forth in Ordinance No. 2006-1033, as amended, Ordinance No. 07-1083, as amended, Ordinance No. 10-1022, as amended, and Ordinance No. 15-1321, as amended;
3. The traffic report submitted with this PAD amendment is not approved, and shall be resubmitted with the first site plan or preliminary plat submitted for the Property. The resubmitted traffic report shall include an analysis of Estrella Parkway, Fillmore Street, and the intersection of said streets, and the analysis shall take into account the proposed residential developments to the north of the Property. The Owner of all or part of the Property shall, at Owner’s sole cost and expense, be responsible for the construction of all offsite improvements that the City Engineer requires, based on the approved traffic report, including any offsites, whether or not adjacent to the Property, determined to be necessary because removal of 153<sup>rd</sup> Avenue;
4. The developer and/or property owner shall provide an ADA-compliant pathway along the western and southern boundaries of the project, outside of the project’s perimeter wall, consisting of a concrete sidewalk at least five feet in width. Said sidewalk shall be shown on the site plan for the project in a location, form and manner acceptable to the Development Services Director or designee; and
5. A building setback of at least 20 feet shall be provided from the east property line of the subject property. Within this setback area, two 24-inch box trees shall be planted. The trees shall be maintained by the property manager, and any tree that is removed shall be promptly replaced by the property manager.

SECTION 4.     AMENDMENT OF ZONING MAP

The Zoning Map of the city of Goodyear is hereby amended to reflect the rezoning of the Property with the adoption of the “Estrella Commons Planned Area Development”, dated August 9, 2017, referred to herein by the adoption of Supplementary Zoning Map No. 17-15A, a copy of which is attached hereto as Exhibit A, and such amendment shall be filed with the City Clerk in the same manner as the Zoning Map of the city of Goodyear.

SECTION 5.     ABRIDGMENT 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 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 8.     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 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.

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:

Darcie McCracken, City Clerk

Roric Massey, City Attorney

## CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA )  
 ) ss.  
County of Maricopa )

I, the undersigned Darcie McCracken, being the duly appointed, qualified City Clerk of the city of Goodyear, Maricopa County, Arizona, certify that the foregoing Ordinance No. 17-1368 is a true, correct and accurate copy of Ordinance No. 17-1368, 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