

ORDINANCE NO. 17-1371

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY ONE ACRE FROM AGRICULTURAL (AG) TO FINAL PLANNED AREA DEVELOPMENT (PAD); 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 subject property, which consists of approximately one acre, is generally located at the southeast corner of Cotton Lane and Thomas Road and is legally described in Exhibit B attached hereto (the "Property"). Said Property is zoned Agricultural (AG) and is developed with an electrical substation operated by APS; and

WHEREAS, the APS substation is considered a legal, nonconforming use, and as a legal, nonconforming use, the existing substation cannot be modified or expanded; and

WHEREAS, APS intends to build a new substation to meet the growing demand for electrical service in this area. In order to build the new substation, modifications to the existing substation will be required. As such, the Property must be brought into conformance with the Zoning Ordinance in order to allow these modifications; and

WHEREAS, APS is acquiring additional property, which is adjacent to the Property and is needed for the new subdivision; and

WHEREAS, the additional property APS is acquiring is zoned Final Planned Area Development (PAD), subject to the PV303 Final PAD as amended; and

WHEREAS, the request is to rezone the Property from the Agricultural (AG) zoning district to the Final Planned Area Development (PAD) zoning district subject to the PV303 Final PAD as amended; and

WHEREAS, upon rezoning, the Property will be included within the PV303 PAD, West II, and shall be subject to the land uses and development standards established by the Commercial (C-2) land use; and

WHEREAS, public utility facilities are a permitted use in Commercial (C-2); and

WHEREAS, staff has determined that the proposed rezoning is consistent with the General Plan and will not adversely impact the surrounding area as outlined in the Zoning Ordinance; and

WHEREAS, public notice that this rezoning was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on November 8, 2017, appeared in the Arizona Republic Southwest Valley edition on October 20, 2017; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on November 8, 2017 to consider this rezoning, and the Commission voted to recommend approval of the rezoning; and

WHEREAS, public notice that this rezoning is to be considered and reviewed at a public hearing held before the City Council on November 20, 2017, appeared in the Arizona Republic Southwest Valley edition on October 20, 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. 17-1371 applies to that parcel of land in Goodyear, Maricopa County, Arizona, located at the southeast corner of Cotton Lane and Thomas Road, as shown on Supplementary Zoning Map No. 17-06, attached hereto as Exhibit A, and as legally described in Exhibit B, attached hereto.

SECTION 2. REZONING

The Property is hereby conditionally rezoned from the Agricultural (AG) zoning district to the Final Planned Area Development (PAD) zoning district. The permitted uses for the Property shall be those uses for the Commercial (C-2) Zone for West II as set forth in the PV303 Planned Area Development dated February 2017, which was declared a public record by Resolution No. 17-1796 and adopted by Ordinance 17-1346; and the development of the Property shall be in conformance with the development regulations and standards applicable to the General Commercial (C-2) zoning district as set forth in the Goodyear Zoning Ordinance, as modified by the PV303 Planned Area Development dated February 2017.

SECTION 3. STIPULATIONS

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

1. Development of the Property shall be in conformance with the “PV303 Planned Area Development dated February 2017” and the stipulations set forth in Ordinance No. 17-1346 adopting the PV303 Planned Area Development dated February 2017.

SECTION 4. AMENDMENT OF ZONING MAP

The Zoning Map of the city of Goodyear is hereby amended to reflect the rezoning of the Property, referred to herein by the adoption of Supplementary

Zoning Map No. 17-06, a copy of which is attached hereto as Exhibit A, and such rezoning 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. 17-1371 is a true, correct and accurate copy of Ordinance No. 17-1371, 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