

ORDINANCE NO. 2018-1396

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, REZONING APPROXIMATELY 15 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF PEBBLECREEK PARKWAY AND VIRGINIA AVENUE FROM FINAL PLANNED AREA DEVELOPMENT (PAD), MIXED USES, TO FINAL PLANNED AREA DEVELOPMENT (PAD) VILLAGES AT PEBBLE CREEK 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, on May 9, 2005, the City Council adopted Ordinance No. 05-940 approving the rezoning of 562 acres of property to the Final Planned Area (PAD) District, Mixed Uses to facilitate development known as Palm Valley Phase 8 (the “Palm Valley Phase 8 PAD”); and

WHEREAS, the Palm Valley Phase 8 Planned Area Development (PAD) is an approximate 562 acre planned mixed-use development that includes a range of residential densities and commercial uses generally located between on the north side of McDowell Road between PebbleCreek Parkway and Sarival Avenue. The property being rezoned consists of approximately 15 acres within the Palm Valley Phase 8 PAD and is more particularly described in that certain document titled Villages at Pebble Creek Legal Description, declared a public record by Resolution 2018-1886, three copies of which are on file with the City Clerk of the City of Goodyear, Arizona and which is referred to and made a part hereof as if fully set forth in this Ordinance (the “Property”); and

WHEREAS, the General Plan Land Use Plan shows the Property designated as ‘Neighborhoods’. 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, the Property is currently designated as Commercial under the existing Palm Valley Phase 8 PAD; and

WHEREAS, this request is to remove the Property from the Palm Valley Phase 8 PAD to create a separate PAD known as the Villages at Pebble Creek PAD, changing the land use designation to Multi-Family Residential (MFR); and

WHEREAS, a rezoning request 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 rezone to the Villages at Pebble Creek PAD was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on June 27, 2018, appeared in the Arizona Republic Southwest Valley edition on June 8, 2018; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on June 27, 2018 to consider the rezone of the Property to the Villages at Pebble Creek Phase 8 PAD, and the Commission voted (5-0) to recommend approval of the proposed rezoning; and

WHEREAS, public notice that this rezone of the Property to the Villages at Pebble Creek PAD is to be considered and reviewed at a public hearing held before the City Council on July 9, 2018, appeared in the Arizona Republic Southwest Valley edition on June 8, 2018; 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. 2018-1396 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located on the south side of Virginia Avenue west of PebbleCreek Parkway as shown on that certain document titled “Supplementary Zoning Map No. 17-06A,” declared a public record by Resolution 2018-1886, three copies of which are on file with the City Clerk of the City of Goodyear, Arizona and which is referred to and made a part hereof as if fully set forth in this Ordinance, and as legally described in that certain document titled “Villages at Pebble Creek Legal Description,” declared a public record by Resolution 2018-1886, three copies of which are on file with the City Clerk of the City of Goodyear, Arizona and which is referred to and made a part hereof as if fully set forth in this Ordinance (the “Property”).

SECTION 2. PLANNED AREA DEVELOPMENT AMENDMENT

The Property is hereby conditionally rezoned from the Final Planned Area Development (PAD) District, Mixed Uses, to the Final Planned Area Development (PAD) zoning district, by adopting that certain document titled “Villages at Pebble Creek – PAD Development Regulations dated May 30, 2018,” declared a public record by Resolution 2018-1886, 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 “Villages at Pebble Creek PAD Development Regulations dated May 30, 2018” except as modified by these conditions;

2. Approval of the rezoning does not constitute approval of the site plan. All future development will be subject to site plan review and approval by city staff, at which time all elements of site development will be reviewed, including, but not limited to, architecture, landscaping, grading and drainage, lighting, infrastructure, parking, access and circulation;
3. The Owner shall be responsible for relocating the date palms located in the median in Virginia Avenue. The relocation of the date palms shall be within the median, but the location will be determined by the city during the site plan review;
4. With the first submittal of the site plan, the left turn lane from Virginia Avenue into the project site shall be designed to only allow left turn movements into the site and prevent left turns from the project site onto Virginia Avenue;
5. Prior to obtaining civil construction permits, the Owner shall pay to the City an in lieu payment for their proportionate share (25%) of the costs for the traffic signals at Pebblecreek Parkway and Virginia Avenue, and Pebblecreek Parkway and Harvard Street;
6. The Owner shall be responsible for the half street improvements along the property frontages of Pebblecreek Parkway and Virginia Avenue. Said improvements shall include, but are not limited to, curb, gutter, sidewalk, paving, landscaping, landscape irrigation, street lights, signing and striping. Improvements shall be completed prior to issuance of the first certificate of occupancy within the Property;
7. The Owner shall dedicate, in fee and at no cost to the City, all right-of-way necessary for the public roads, including traffic signals, within the Property and along the frontage of the Property (Pebblecreek Parkway and Virginia Avenue).
8. Owner shall dedicate, at no cost to the City, public utility easements necessary to provide service to the Property; such easements shall be dedicated at the time of site plan approval and shall be in a form acceptable to the City Engineer, or his designee;
9. The Owner of the rental complex shall include a disclosure statement in any rental agreement for prospective residents to sign acknowledging that the development is in proximity to Luke AFB and the Phoenix-Goodyear Airport and 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;
10. All buildings within the Property shall be constructed with a minimum of R18 exterior wall assembly, a minimum of R30 roof and ceiling assembly, dual-glazed windows and solid wood, foam-filled fiberglass or metal doors to the exterior or alternatively, certification by an architect or engineer shall demonstrate that a maximum interior noise level of forty-five decibels has been achieved, in accordance with State Statute 28-8482; and,

11. The maximum number of units shall be 184.

SECTION 4. AMENDMENT OF ZONING MAP

The Zoning Map of the city of Goodyear is hereby amended to reflect the rezoning of the Property provided for herein by the adoption of that certain document titled "Supplementary Zoning Map No. 17-06A," declared a public record by Resolution 2018-1886, three copies of which are on file with the City Clerk of the City of Goodyear, Arizona and which is referred to and made a part hereof as if fully set forth in this Ordinance, and "Supplementary Zoning Map 17-06A," 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 provision 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.

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. 2018-1396 is a true, correct and accurate copy of Ordinance No. 2018-1396, 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