

## **ORDINANCE NO. 2018-1394**

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, REZONING A TOTAL OF APPROXIMATELY 5.75 ACRES LOCATED 400 FEET SOUTH OF THE SOUTHWEST CORNER OF LOWER BUCKEYE ROAD AND 173<sup>RD</sup> AVENUE, KNOWN AS THE CITY OF GOODYEAR WATER CAMPUS NO. 12, FROM THE AGRICULTURAL (AG) DISTRICT (3.26 ACRES) AND FINAL PLANNED AREA DEVELOPMENT (PAD) DISTRICT (2.49 ACRES) MULTI-USE LAND USE CLASSIFICATION UNDER THE EL CIDRO PAD TO THE PUBLIC FACILITIES DISTRICT (PFD); 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 February 10, 1986, the City Council of the city of Goodyear, in the manner prescribed by law, adopted Ordinance No. 86-185 annexing approximately 300 acres to the city of Goodyear, which included the subject property's 5.75 acres, and zoning said property AG Agricultural District, the equivalent of its Rural-43 (RU-43) zoning pursuant to the Maricopa County Zoning Ordinance; and

WHEREAS, on January 8, 1991, the city of Goodyear acquired the northerly 3.26 acres of the subject property from AMCOR development company and subsequently developed a Public Utility Facility, as permitted by the existing AG zoning on the property, that included a water well, storage tank, and treatment facilities on said property to provide potable water to the residents of the city; and

WHEREAS, on March 5, 2007, the City Council of the city of Goodyear, in the manner prescribed by law, adopted Ordinance No. 07-1060 conditionally approving the rezoning (06-200-00015) of approximately 616.70 acres of property for the purpose of establishing the El Cidro Final Planned Area Development (PAD), which included the subject property's southerly 2.49 acres, but did not include the northerly 3.26 acres; and

WHEREAS, on April 14, 2008, the City Council of the city of Goodyear, in the manner prescribed by law, adopted Ordinance No. 08-1111 conditionally approving a request (07-200-00028) to amend the El Cidro Final PAD by providing for an increase of 12 residential lots in a parcel then numbered Parcel 4, an increase of 10 residential lots in a parcel then numbered Parcel 5, and reconfiguring the boundaries of approximately 47.62 acres of planned commercial and industrial land uses. The Commercial parcel at Elwood Street and Cotton Lane was enlarged and the Commercial parcel at Cotton Lane and the UP/SP Railroad was changed from Commercial to Industrial; and

WHEREAS, on May 24, 2010, the City Council of the city of Goodyear, in the manner prescribed by law, adopted Ordinance No. 10-1215 conditionally approving a request (09-200-00017) to amend the El Cidro Final PAD by including 20 acres of additional commercial land area, creating a new Multi-Use land use category, reconfiguring and modifying existing land uses for several

parcels within the PAD, and placing a land use designation on the adjacent city-owned property. The parcel numbers within the PAD were also revised; and

WHEREAS, on June 24, 2013, the City Council adopted Ordinance No. 13-1285 approving a request (Case No. 13-210-00002) to amend the El Cidro Final PAD and change the land use designation from Commercial to Industrial for Parcel 10, located on the west side of Cotton Lane between Elwood Street and Commerce Drive, and a portion of Parcel 13 located adjacent to and west of Parcel 10; and

WHEREAS, on December 14, 2015, the City Council adopted Ordinance No. 15-1327 approving a request (Case No. 15-210-00004) to amend the El Cidro Final PAD by modifying the side setbacks from five feet and 10 feet (15 feet total) to five feet and five feet (10 feet total) for Parcels 1A and 1D generally located south of Lower Buckeye Road and east of Citrus Road; and

WHEREAS, on June 5, 2017, the City Council adopted Ordinance No. 17-1352 approving a request (Case No. 17-210-00002) to amend the El Cidro Final PAD by (1) increasing the maximum lot coverage standard in the Low Density Residential land use classifications from 45% to 55% in LDR1; from 45% to 60% in LDR2; and from 45% to 50% in LDR3; and (2) revising the boundaries between Parcels 1D, 1E, and 2 to conform to the platting of these parcels; and

WHEREAS, on September 7, 2017, the city of Goodyear acquired the southerly 2.49 acres of the subject property for the purpose of expanding the existing water campus and adding a second, 2.0 MG water storage tank and associated water treatment equipment; and

WHEREAS, on July 9, 2018, the City Council adopted Ordinance No. 18-1387 approving a request (Case No. 18-210-00002) to amend the El Cidro Final PAD to modify certain residential development standards applicable to the LDR1, LDR2 and LDR3 Low Density Residential land use categories and,

WHEREAS, since the current Zoning Ordinance now requires a Use Permit for a Public Utility Facility in the AG district and the zoning standards of the AG district that applied to the northerly 3.26 acres of the property are different from those that apply to the southerly 2.49 acres zoned Final PAD Multi-Use Land Use Category under the El Cidro PAD, it was determined that it would be appropriate to propose rezoning the entire property to the Public Facilities District (PFD) to consolidate the zoning of this property; and

WHEREAS, a request to amend the Planned Area Development zoning on a property requires public review and approval by the Planning and Zoning Commission and City Council; and

WHEREAS, public notice that this proposed rezoning was to be considered and reviewed at a public hearing to be held before the Planning and Zoning Commission on June 27, 2018 appeared in the Arizona Republic Southwest Valley Edition on June 8, 2018; a sign was posted on the subject property on May 25, 2018; and postcards were mailed to all adjacent property owners within 500 feet of the subject property on or about June 8, 2018; and

WHEREAS, based on the information submitted by the city of Goodyear Public Works Department in its application requesting for rezoning, 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 finds that this proposed rezoning is consistent with the General Plan and will be compatible with the existing and proposed land uses in the surrounding area, and has recommended to the Planning and Zoning Commission approval of said proposed rezoning; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on June 27, 2018 and at that meeting the Commission voted 5 to 0 to recommend approval of the proposed rezoning, as aforesaid, subject to certain stipulations; and

WHEREAS, public notice that this proposed rezoning was to be considered and reviewed at a public hearing held to be before the City Council on July 9, 2018 appeared in the Arizona Republic Southwest Valley Edition on June 8, 2018; a sign was posted on the subject property on May 25, 2018; and postcards were mailed to all adjacent property owners within 500 feet of the subject property on or about June 8, 2018; and

WHEREAS, the Mayor and Council of the city of Goodyear, Arizona adopt the findings of staff and 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. REZONING

That a 5.75-acre parcel of land in Goodyear, Maricopa County, Arizona, generally located 400 feet south of the southwest corner of Lower Buckeye Road and S. 173<sup>rd</sup> Avenue, as more specifically described in that certain document titled "Legal Description City of Goodyear Water Campus No. 12," which document was declared a public record by Resolution No. 2018-1885, three copies of which are on file with the City Clerk of the city of Goodyear, Arizona and which is referred to, and is adopted and made a part hereof as if fully set forth in this ordinance, is hereby rezoned from the Agricultural (AG) District (3.26 acres) and the Final Planned Area Development (PAD) District (2.49 acres) Multi-Use Land Use Category under the El Cidro PAD to the Public Facilities District (PFD), as provided in the city of Goodyear Zoning Ordinance.

#### SECTION 2. AMENDMENT OF 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 that certain document titled, "Supplementary Zoning Map No. 18-05," which document was declared a public record by Resolution No. 2018-1885, three copies of which are on file with the City Clerk of the city of Goodyear, Arizona and which is referred to, and is adopted and made a part hereof as if fully set forth in this ordinance, 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.     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 4.     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 5.     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 6.     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 7.     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

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. 2018-1394 is a true, correct and accurate copy of Ordinance No. 2018-1394, 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