

ORDINANCE NO. 2018-1403

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, REZONING APPROXIMATELY 30 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF MCDOWELL ROAD AND 159TH AVENUE FROM AGRICULTURAL (AG) TO FINAL PLANNED AREA DEVELOPMENT (PAD) PEBBLE CREEK MARKETPLACE MIXED USE PHASE II PAD; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR NON-ABRIDGMENT, CORRECTIONS, AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PENALTIES.

WHEREAS, the Subject Property (or the “Property”) consists of approximately 30 acres and was annexed into the city in 1982 and designated as Agricultural (AG) zoning; and

WHEREAS, the General Plan Land Use Plan shows the Property designated as ‘Business & Commerce’. The ‘Business & Commerce’ land use category provides areas for the growth and development of Goodyear’s economic base including large areas for shopping and entertainment and includes uses such as high density residential that supports the area; and

WHEREAS, this request is to rezone the property to create a PAD known as Pebble Creek Marketplace Mixed Use Phase II PAD, changing the land use designation to Multi-Family and Commercial (C-2); 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 Pebble Creek Marketplace Mixed Use Phase II PAD was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on September 12, 2018, appeared in the Arizona Republic Southwest Valley edition on August 24, 2018; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on September 12, 2018 to consider the rezone of the Property to the Pebble Creek Marketplace Mixed Use Phase II 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 Pebble Creek Marketplace Mixed Use Phase II PAD is to be considered and reviewed at a public hearing held before the City Council on September 24, 2018, appeared in the Arizona Republic Southwest Valley edition on August 24, 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. 2018-1403 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located on the south side of McDowell Road east of 159th Avenue, as legally described in that certain document titled “Pebble Creek Marketplace Mixed Use Phase II Legal Description” and as shown on that certain document titled “Official Supplementary Zoning Map No.18-04A,” both documents having been declared a public record by Resolution No. 2018-1891, three copies of both documents being on file with the City Clerk of the City of Goodyear, Arizona, and which documents are referred to made a part hereof as if fully set forth in this Ordinance (the “Property”).

SECTION 2. PLANNED AREA DEVELOPMENT

The Property is hereby conditionally rezoned from Agricultural (AG), to the Final Planned Area Development (PAD) zoning district, by adopting that certain document titled “Pebble Creek Marketplace Mixed Use Phase II – PAD Development Regulations dated June 25, 2018,” declared a public record by Resolution No. 2018-1891, 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 is 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 “Pebble Creek Marketplace Mixed Use Phase II PAD Development Regulations dated June 25, 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 minimum number of dwelling units that shall be built is 204;
4. An 8-foot sound wall shall be built in strict conformance with the approved noise study, dated January 30, 2018;
5. All recommendations from the approved noise study, dated January 30, 2018, shall be strictly adhered to, unless an updated study is submitted to the city, then the new recommendations shall be met;
6. Prior to the issuance of any certificate of occupancy within the rezoned property, Owner shall complete construction of required onsite and offsite

infrastructure to serve the rezoned property with water and sewer in accordance with approved City Master Plans and the Engineering Design Standards and Policies Manual;

7. The Owner shall dedicate all necessary easements needed for on-site and off-site infrastructure Owner is required to construct. Such dedications shall be, in form and substance acceptable to the City, and shall be made in conjunction with approval of any final plat, minor land division, site plan, or when otherwise requested by the City Engineer;
8. Owner shall improve the full half streets for the sections of McDowell Road (Major Arterial designation) and 159th Avenue (Minor Collector designation) fronting the rezoned property. Improvements include but are not limited to landscaping, and landscape irrigation. Improvements shall be completed prior to issuance of the first certificate of occupancy;
9. The Engineering plans provided with the zoning application are conceptually approved, however, further comments may be forthcoming during Site Plan review; and,
10. Work within the Roosevelt Irrigation District's easement shall require review and approval from said entity.

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 "Official Supplementary Zoning Map No. 18-04A," declared a public record by Resolution No. 2018-1891, 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 the "Official Supplementary Zoning Map 18-04A," 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

