

ORDINANCE NO. 2018-1408

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING THE PROPERTY WITHIN THE EL CIDRO FINAL PLANNED AREA DEVELOPMENT CONSISTING OF APPROXIMATELY 636.73 ACRES, GENERALLY LOCATED SOUTH OF LOWER BUCKEYE ROAD AND EAST OF CITRUS ROAD BY CONSOLIDATING STIPULATIONS OF APPROVAL FROM PREVIOUS REZONINGS AND BY ADOPTING THE EL CIDRO FINAL PAD DATED JUNE 2018, WHICH MODIFIES THE REAR AND SIDE YARD SETBACKS AND THE MAXIMUM LOT COVERAGE DEVELOPMENT STANDARDS FOR THE LDR1, LDR2, AND LDR3 LOW DENSITY RESIDENTIAL LAND USE CATEGORIES; 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 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); 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 increasing the number of permitted residential lots in various parcels, reconfiguring the boundaries of approximately 47.62 acres of planned commercial and industrial land uses, increasing the size of the commercial parcel at Elwood Street and Cotton Lane, and changing the land use designation for the 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 adopting the El Cidro Planned Area Development Amended March 24, 2010 to include an additional 20 acres in the PAD designated as commercial, revising parcel numbers, creating a new Multi-Use land use category, reconfiguring and modifying existing land uses for several parcels, and zoning the adjacent city-owned property; and

WHEREAS, on June 24, 2013, the City Council adopted Ordinance No. 13-1285 approving a request (13-210-00002) to amend the El Cidro Final PAD to 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 (15-210-00004) to amend the El Cidro Final PAD to modify 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 in the area 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 (17-210-00002) to amend the El Cidro Final PAD to (1) increasing the maximum lot coverage standard in the Low Density Residential land use categories from 45% to 55% in LDR1; from 45% to 60% in LDR2; and from 45% to 50% in LDR3; and (2) revise the boundaries between Parcels 1D, 1E, and 2 to conform to the platting of these parcels; and

WHEREAS, on July 9, 2018, the City Council adopted Ordinance No. 2018-1387 approving a request (18-210-00003) to amend the El Cidro Final PAD to reduce the rear yard setback from 20 feet to 18 feet in Parcel 1D Phase 1 within the LDR2 residential land use category for single story homes; and

WHEREAS, this amendment (i) consolidates all applicable stipulations of approval from previous rezonings, (ii) modifies the rear yard setbacks for the LDR2 and LDR3 land use categories by reducing the rear yard setback from 20 feet to 18 feet for single story homes, (iii) modifies the side yard setbacks for the LDR1 and LDR3 land use categories by reducing the side yard setbacks from 5 feet and 10 feet to 5 feet and 5 feet, and (iv) modifies the maximum lot coverage for the LDR1 and LDR3 land use categories by increasing the maximum lot coverage from 50% and 55% to 60%; and

WHEREAS, city staff finds that this El Cidro Final PAD Amendment will be consistent with the General Plan and will be compatible with the existing and proposed land uses in the surrounding area; and

WHEREAS, public notice that this El Cidro Final PAD Amendment 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, and at that meeting the Commission voted 3 to 2 on a motion to recommend approval of the proposed Final PAD Amendment; and

WHEREAS, the Planning and Zoning Commission Rules of Procedure state that on matters requiring official action by the Mayor and Council, the nature of the Planning Commission's recommendation shall be determined by an affirmative vote of at least 4 members.

WHEREAS, public notice that this El Cidro Final PAD Amendment 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 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. DESCRIPTION OF PROPERTY BEING AMENDED

This Ordinance No. 2018-1408 applies to approximately 636.73 (gross) acres in Goodyear, Maricopa County, Arizona, generally located from east of Cotton Lane west to Citrus Road, and from Lower Buckeye Road south to Broadway Road as shown on that certain document titled, "Supplementary Zoning Map No. 18-02B," which document was declared a public record by Resolution No. 2018-1898 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 as legally described in that certain document titled "El Cidro PAD Legal Description," (the "Property"), which document was declared a public record by Resolution No. 2018-1898, 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.

SECTION 2. PLANNED AREA DEVELOPMENT AMENDMENT

The Property is conditionally rezoned from Final Planned Area Development (PAD) District PAD to Final Planned Area Development (PAD) District by the adoption of that certain document titled, "El Cidro Final PAD June 2018," which document was declared a public record by Resolution No. 2018-1898, 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.

SECTION 3. STIPULATIONS

The rezoning of the Property is subject to the following consolidated stipulations:

1. All development within the subject property shall be in compliance with the development concepts and standards as contained in the "El Cidro Final PAD June 2018," except as modified by these stipulations;
2. Because the El Cidro project is no longer owned by a single entity, failure of a developer within the El Cidro project to comply with any other City codes and regulations in the development of El Cidro, then the Development Services Director may result in the Development Services Director, or his designee, suspending the issuance of building or construction permits within such developer's portion of the El Cidro project until such developer cures the item in default;
3. The owner shall apply to the Department of Water Resources (DWR) for the extinguishment of the Type 1 Rights appurtenant to El Cidro and request that any assured water supply credits issued by DWR as a result of any such extinguishment be credited to the City of Goodyear. Said

extinguishment shall occur prior to recordation of any final plat for the development;

4. The maximum number of residential dwelling units permitted within the subject property shall not exceed 1,344;
5. The underground placement of all permanent utilities, excluding power lines 69 kV or larger, within the development and abutting the development's portion of perimeter arterial streets per phase prior to issuance of the first Certificate of Occupancy within such phase of the development;
6. The owner shall construct off-site improvements in accordance with a phasing plan approved by the City Engineer, or his designee;
7. The owner will be required to construct off-site water line facilities and transmission lines adjacent to their property as set forth in the City approved Master Water Study prepared for the West Goodyear Central Planning Area;
8. The owner will be required to construct off-site sewer trunk line(s) as set forth in the City approved Master Wastewater Trunk Line Study prepared for the West Goodyear Central Planning Area;
9. If the required retention basins do not drain within the time frame required, the owner shall be responsible for implementing alternative corrective measures for the duration of the project's warranty period and shall identify such alternative method or methods on the grading and drainage plans submitted to the City Engineer, or his designee, for review and approval prior to the issuance of the grading permit for the project;
10. The owner shall provide for a waiver agreement, which shall run with the land, for each initial homebuyer to sign, and shall include the following statement in the waiver agreement: "El Cidro is subject to attendant noise, vibrations, dust, 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. The waiver shall release and discharge the City of Goodyear and the owner from any liability for any and all claims for future damages to persons or property and complaints of any kind that may arise at any time in the future from the operation of such aircraft near and over the area";
11. The Public Sales Report and each final plat shall include a statement that El Cidro is subject to attendant noise, vibrations, dust, 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;

12. The owner shall post signage within all subdivision sales offices identifying the location of the Luke Air Force Base Accident Potential Zones (APZs), 65 Ldn and higher noise contours, and departure corridors, as well as the Phoenix-Goodyear Airport Traffic Pattern Area and noise contours per the Goodyear General Plan 2003-2013 (Policy B-3e of Section 9 .2). This display shall include a twenty-four by thirty-six inch (24"x36") map at the main entrance of such sales facility and shall include the approximate locations of the homes or apartments being sold or leased clearly depicted. The required contents of the map shall be provided by the City of Goodyear;
13. The following information shall be disclosed in the Public Sales Report, noted on each final plat and be provided in a separate acknowledgment, which shall run with the land, for each initial homebuyer to sign: "El Cidro is in close proximity to agricultural uses and may therefore be subject to noise, dust, and odors associated with such uses";
14. The following information shall be disclosed in the Public Sales Report, noted on each final plat and be provided in a separate acknowledgement, which shall run with the land, for each initial homebuyer to sign: "El Cidro is in proximity to the proposed Loop 303 and I-10 Reliever freeways and may be subject to potential noise intrusion, vibrations, dust and all other effects that may be caused by said freeways";
15. The Public Sales Report shall include a statement that El Cidro Parcel 5 may be subject to noise, light and other potential effects associated with commercial uses that may be developed on Parcel 6. The property owner and/or developer shall maintain a temporary sign on Parcel 6 announcing the future commercial development of the property. Said sign shall be located along Lower Buckeye Road, and be maintained until such time that Parcel 6 is developed;
16. All development on the subject property shall comply with the prevailing City of Goodyear Design Guidelines;
17. The owner shall de-emphasize the garage element of all dwelling units by using techniques such as front porches and livable areas of the home that project forward of the garage, side entry or recessed garages, or other design elements acceptable to the Development Services Director, or his designee;
18. The owner shall establish a Homeowner's Association (HOA) for El Cidro, with said HOA owning and maintaining all open space areas, trails, and other community amenities and maintaining all arterial and collector road rights-of-way landscaping except for arterial median landscaping. A

note shall be placed on each final plat indicating HOA ownership and maintenance responsibilities of these tracts;

19. The owner shall submit a copy of the legal documents pertaining to the establishment of the HOA and any Conditions, Covenants and Restrictions (CC&R's) associated with the proposed development for City Staff review and comment prior to approval of any final plat;
20. All lots adjacent to internal open space areas shall have rear yard view fences. Those lots that have view fences shall be required to complete their rear yard landscaping within 90 days of the issuance of a Certificate of Occupancy for the dwelling. However, lots 78-80 in Parcel 1A, and lots 102-104 in Parcel 4, and any other similarly situated lots are exempt from the rear view fence requirement due to headlight intrusion;
21. The owner shall improve all tot lots within the project with an approved shade canopy over the play equipment;
22. All open space, landscape, hardscape, entry monuments, walls, and other subdivision amenity improvements shall be constructed prior to the issuance of the first single-family certificate of occupancy, unless a phasing plan for the improvements is submitted to the City Staff for review and approval;
23. The Industrial portion of the project shall be developed in accordance with the land uses and development standards of the I-2 General Industrial District, as described within the City of Goodyear Zoning Ordinance;
24. Consistent with the existing right-of-way for Cotton Lane, the owner shall provide for the dedication of the west-half of the right-of-way for Cotton Lane, 75 feet from centerline adjacent to the renumbered Parcel 7 on the El Cidro Land Use Plan dated May 15, 2018, from Elwood Street to a point approximately 300 feet south of Commerce Drive, in a form and substance acceptable to the City Engineer, or designee, prior to or concurrent with approval of any site plan or recordation of any subdivision plat involving renumbered Parcel 7;
25. The owner shall be responsible for the construction of the half-street and half-median improvements along Cotton Lane, from its intersection with West Elwood Street (formerly Dunlap Road) south to MC 85, which shall consist of a minimum of two, twelve-foot travel lanes, one four-foot wide bike lane, curb and gutter, an eight-foot wide sidewalk, and a center median prior to or concurrent with approval of any site plan or recordation of any subdivision plat involving renumbered Parcel 7. A portion of this responsibility may be fulfilled by the owner by making a payment to the City of appropriate proportionate share of any existing improvements that have already been installed;

26. For homes proposed within Parcels 1A, 1B, 1C, 1D, 1E, 1F and 4, the front door or entryway shall be clearly visible from the front of the lot;
27. For homes proposed within Parcels 1A, 1B, 1C, 1D, 1E, 1F and 4, a roughly proportionate mix of garage orientations, including side-entry and recessed garages, shall be provided;
28. Homes with a forward-facing garage proposed within Parcels 1A, 1B, 1C, 1D, 1E, 1F and 4 shall provide for porches, courtyards, and/or livable areas in front of the garage;
29. For all homes in Land Use Categories LDR1, LDR2, and LDR3, the El Cidro enhanced landscape package prepared by CVL dated June 4, 2018 attached as an Exhibit to the El Cidro Final PAD June 2018, shall be implemented within 60 days of issuance of the Certificate of Occupancy for that dwelling;
30. All phasing plans shall be approved by the City Engineer prior to construction plan approval for those phases;
31. The owner shall provide for the dedication of the following rights-of-way, in form and substance acceptable to the City Engineer, or his designee, prior to or concurrent with recordation of the applicable final plat:
 - a. East half of Citrus Road right-of-way, 55 feet from centerline;
 - b. South half of Elwood Road right-of-way west of Cotton Lane, 65 feet from centerline;
 - c. North half of Elwood Road right-of-way east of Cotton Lane to the eastern boundary of the project, at a width to be determined by the City
 - d. North half of Broadway Road right-of-way west of the city of Goodyear property within the 303 alignment, at a width to be determined by the City, but no more than 55 feet from centerline;
32. The owner will be responsible for full-street improvements to the Cotton Lane from Elwood to Pioneer Street, including the proposed drainage channel, two travel lines in each direction, a center median, curbs and gutters, bike lanes and sidewalks. Owner shall be allowed to construct this portion of Cotton Lane in half-street segments in conjunction with the development of the adjacent portion of the property;
33. The owner will be responsible for the half-street and half-median improvements along those portions of Citrus Road, and Elwood Road adjacent to the property. The half-streets for Citrus Road, and Elwood Road shall be constructed with the following minimum improvements:

two twelve foot travel lanes, one four-foot wide bike lane with curb and gutter, an eight foot sidewalk and center median;

34. The owner or successor shall warranty all public and private improvements constructed by the owner or successors within the City of Goodyear rights-of-way, tracts and easements for a period of not less than two (2) years from the date of acceptance by the City Engineer, or his designee;
35. The owner shall be responsible for a proportionate share of the costs for traffic signals to be installed at the following intersections;
 - a. Elwood Road and Cotton Lane - 75%;
 - b. Lower Buckeye Road and Cotton Lane - 50%;

The owner shall pay to the City the proportionate share of the costs to install the required signals when warranted, as determined by the City Engineer or his designee, or at the time of the issuance of fifty percent (50%) of the building permits for the homes within the development, whichever comes first; and,

36. Street improvements and traffic signal contributions shall apply to the owner of the applicable portion of the El Cidro project.

SECTION 4. 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 18-02B," and legally described in that certain document titled, "El Cidro Final PAD Legal Description," both documents which were declared public records by Resolution 2018-1898, three copies of which are on file with the City Clerk of the City of Goodyear, Arizona and which are referred to 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 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

