

ORDINANCE NO. 2018-1411

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 193 ACRES LOCATED AT THE SOUTHEAST CORNER OF PERRYVILLE ROAD AND HARRISON ROAD ALIGNMENT AND THE NORTHEAST CORNER OF YUMA ROAD AND THE 183RD AVENUE ALIGNMENT, KNOWN AS LA PRIVADA, BY REZONING APPROXIMATELY 69 ACRES FROM FINAL PLANNED AREA DEVELOPMENT (PAD) TO R1-7, APPROXIMATELY 48 ACRES FROM PAD TO R1-6, AND APPROXIMATELY 76 ACRES FROM PAD TO R1-4; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR NON-ABRIDGEMENT; PROVIDING FOR CORRECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PENALTIES.

WHEREAS, on June 26, 2006, the City Council of the city of Goodyear, in a manner prescribed by law, adopted Ordinance No. 2006-1014, conditionally approving the rezoning (05-200-00028) of 197.8 acres of property located at the southeast corner of Perryville Road and Harrison Road alignment and the northeast corner of Yuma Road and the 183rd Avenue alignment for the purpose of establishing the La Privada Final Planned Area Development; and

WHEREAS, this request is intended to rezone approximately 193 acres, the remainder of the property within the La Privada Final Planned Area Development, as follows: rezoning approximately 69 acres, as more specifically described in those certain documents titled "Legal Description Parcel 1," and "Legal Description Parcel 2" from Final PAD to R1-7; rezoning approximately 48 acres, as more specifically described in those certain documents titled "Legal Description Parcel 4" and "Legal Description Parcel 6" from Final PAD to R1-6; and rezoning approximately 76 acres as more specifically described in those certain documents titled "Legal Description Parcel 3" and "Legal Description Parcel 5" from Final PAD to R1-4. Those certain documents titled "Legal Description Parcel 1," "Legal Description Parcel 2," "Legal Description Parcel 3," "Legal Description Parcel 4," "Legal Description Parcel 5," and "Legal Description Parcel 6" were all declared public records by Resolution 2018-1907, 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 (hereinafter referred to as the "Legal Descriptions"). (The property described in "Legal Description Parcel 1," "Legal Description Parcel 2," "Legal Description Parcel 3," "Legal Description Parcel 4," "Legal Description Parcel 5," and "Legal Description Parcel 6" is hereinafter collectively referred to as the "Property"; and

WHEREAS, city staff finds that the proposed rezoning will not adversely impact the surrounding area as the proposed R1-7, R1-6, and R1-4 zoning will allow for the orderly growth and continued development of residential uses at this site; 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 October 10, 2018, appeared in the Arizona Republic Southwest Valley edition on September 21, 2018; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on October 10, 2018, and at that meeting the Commission voted 7-0 to recommend approval of the proposed rezoning with the addition of a stipulation that the row of houses along the east side of Parcel 3 that are adjacent to County land, be limited to one-story; and

WHEREAS, public notice that this rezoning was to be considered and reviewed at a public hearing held before the City Council on October 22, 2018, appeared in the Arizona Republic Southwest Valley edition on September 21, 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 interest, health, comfort, convenience, safety, and general welfare of the citizens of the City;

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 REZONED

This Ordinance 2018-1411 applies to approximately 193 acres located the southeast corner of Perryville Road and Harrison Road alignment and the northeast corner of Yuma Road and the 183rd Avenue alignment as legally described in those certain documents titled “Legal Description Parcel 1,” “Legal Description Parcel 2,” “Legal Description Parcel 3,” “Legal Description Parcel 4,” “Legal Description Parcel 5,” and “Legal Description Parcel 6,” which documents were declared public records by Resolution No. 2018-1907, 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 (collectively the “Property”).

SECTION 2. REZONING

The portions of the Property legally described in Legal Description Parcel 1 (“Parcel 1”) and in Legal Description Parcel 2 (“Parcel 2”) are conditionally rezoned from Final Planned Area Development PAD District to R1-7 Single Family Detached Zoning District.

The portions of the Property legally described in Legal Description Parcel 4 (“Parcel 4”) and in Legal Description Parcel 6 (“Parcel 6”) are conditionally rezoned to R1-6 Single Family Detached Zoning District.

The portions of the Property legally described in Legal Description Parcel 3 (“Parcel 3”) and in Legal Description Parcel 5 (“Parcel 5”) are conditionally rezoned to R1-4 Single Family Detached Zoning District.

SECTION 3. STIPULATIONS

The rezoning of the Property is subject to the following stipulations and conditions:

1. Except as otherwise provided herein, the development of the portion of the Property described in Legal Description Parcel 1 and in Legal Description Parcel 2 shall comply with the R1-7 Single Family Detached Zoning District criteria and regulations in the City of Goodyear Zoning Ordinance dated May 1999 as amended and with all applicable federal, state, county, city codes and ordinances;
2. Except as otherwise provided herein, the development the portion of the Property described in Legal Description Parcel 4 and in Legal Description Parcel 6 shall comply with the R1-6 Single Family Detached Zoning District criteria and regulations in the City of Goodyear Zoning Ordinance dated May 1999 as amended and with all applicable federal, state, county, city codes and ordinances;
3. The development of the portion of the Property described in Legal Description Parcel 3 and in Legal Description Parcel 5 shall comply with the R1-4 Single Family Detached Zoning District criteria and regulations in the City of Goodyear Zoning Ordinance dated May 1999 as amended and with all applicable federal, state, county, city codes and ordinances;
4. The minimum rear yard setback for the portions of the Property zoned R1-6 and R1-7 (Currently Parcels 1, 2, 4 and 6) is reduced to 19 feet;
5. The maximum number of lots that may be developed within the Property is 602 lots;
6. To provide the Amenity Element supporting the R1-4 zoning designation:
(i) the parks, trails, open space and amenities described in the La Privada Overall Conceptual Landscape Plan dated August 27, 2018 prepared by Rick Engineering Company, which was declared a public record by Resolution No. 2018-1907, 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, shall be installed as part of the infrastructure requirements of each final plat subdividing all or part of the Property; (ii) decorative paving (i.e. pavers) shall be used for all horizontal paved surfaces between the house and sidewalk for all lots within the portions of the Property zoned R1-4 (currently Parcels 3 and 5); (iii) detached sidewalks shall be installed with the portions of the Property zoned R1-4 (currently Parcels 3 and 5); (iv) the portion of the Property legally described in Legal Description Parcel 6 shall be developed as a Park with the amenities as described in the La Privada Overall Conceptual Landscape Plan dated August 27, 2018; (v) the trail identified in the La Privada Overall Conceptual Landscape Plan dated

August 27, 2018 shall be developed generally consistent with the recommended guidelines for paths/trails in the Goodyear Path/Trail Design Guidelines attached as an appendix to the Goodyear Parks Master Plan; (vi) Owner shall grant the City, at no cost to the City, an access easement allowing the public to access the trail identified in the La Privada Overall Conceptual Landscape Plan dated August 27, 2018; (vii) at least 30% of the lots within the portion of the Property zoned R1-4 (currently Parcels 3 and 5) shall have a minimum width of 50 feet; and (viii) when the portions of the Property zoned R1-4 (currently Parcels 3 and 5) are platted, the blocks shall comply with the requirements of Section 3-2-3.D.ii.3 for smaller blocks.

7. Except as otherwise provided in the Amended and Restated Development Agreement for La Privada dated June 13, 2016 and recorded in the Official Records of Maricopa County on June 17, 2016 as document number 2016-0423793 as it may be amended from time to time, Owner shall complete all landscaping, parks, trails, open space and amenities reflected in the La Privada Overall Conceptual Landscape Plan dated August 27, 2018 prepared by Rick Engineering that are to constructed within each of the specific parcels identified in this ordinance prior to the issuance of the first Certificate of Occupancy for a single family residence within each parcel.
8. Owner shall comply with all of the requirements of the Amended & Restated Development Agreement for La Privada dated June 13, 2016 and recorded in the Official Records of Maricopa County on June 17, 2016 as document number 2016-0423793 as it may be amended from time to time;
9. The Owner shall dedicate in fee and at no cost to the City, the following rights-of-way prior to or concurrent with recordation of any Final Plat:
 - a. East half of Perryville Road right-of-way, 65 feet from centerline;
 - b. North half of Yuma Road right-of-way, 75 feet from centerline;
 - c. South half of Harrison Street right-of-way, 30 feet from centerline;
 - d. Full width of 183rd Avenue right-of-way from Harrison Street to approximately a quarter mile north of Yuma Road, 30 feet from centerline for a total of 60 foot right-of-way;
 - e. East half of 183rd Avenue right-of-way from approximately a quarter mile north of Yuma Road to Yuma Road, 30 feet from centerline;
10. Owner shall construct, at no cost to the City, the full half-street improvements for Perryville Road Yuma Road, Harrison Street, and 183rd Avenue, adjacent to the Property. Improvements shall include but are not limited to paving, curb, gutter, sidewalk, landscaping, landscape irrigation, street lights, traffic signals (as necessary), signing and striping. Unless the City Engineer or his/her designee approves a written phasing plan, the improvements referred to herein shall be completed

prior to issuance of the first certificate of occupancy within the Property, including model homes;

11. Prior to the issuance of any civil construction permits for work within the Property, Owner shall submit to the City an in-lieu payment of fifty-percent (50%) of the costs of the median and median landscaping to be installed within the portions of Perryville Road and Yuma Roads Owner is required to construct;
12. The Owner shall ensure that all on-site and off-site water lines are part of a looped system that will be connected to at least two City of Goodyear water sources at all times;
13. 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: “La Privada 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 Owner does release and discharge the City of Goodyear from any and all claims for future damages to persons or property, or complaints of any kind, that may arise at any time in the future from the operation of such aircraft near and over the area”;
14. The Public Sales Report and final plat shall include a statement that La Privada 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;
15. 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;
16. The following information shall be disclosed in the public sales report and final plat and shall be provided in a separate acknowledgment, which shall run with the land, for each initial homebuyer to sign: “La Privada is in close proximity to agricultural uses and may therefore be subject to noise, dust, and odors associated with such uses”;
17. No growing of crops shall be permitted within 50 feet of any occupied residential dwelling;

18. Owner shall establish a Homeowner's Association (HOA) for La Privada, with said HOA owning and maintaining all open space areas, trails, and other community amenities;
19. The row of homes along the east side of Parcel 3, which are adjacent to County land, shall be limited to one-story.

SECTION 4. 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 5. AMENDMENT TO 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. 18-04," declared a public record by Resolution 2018-1907, 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 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 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 and 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

