

ORDINANCE NO. 2018-1409

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, REZONING APPROXIMATELY 999.3 ACRES OF LAND LOCATED BETWEEN S. RAINBOW VALLEY ROAD AND S. 187TH AVENUE, ON THE NORTH SIDE OF W. QUEEN CREEK ROAD FROM THE AGRICULTURAL URBAN (AU) ZONING DISTRICT TO THE FINAL PLANNED AREA DEVELOPMENT (PAD) ZONING DISTRICT; 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, Rainbow Valley 2011, LLC, an Arizona limited liability company owns approximately 1,000 acres of land generally located at the northwest corner of the W. Queen Creek Road alignment and Rainbow Valley Road commonly known as Rainbow Valley and as more particularly described in that certain document titled "Rainbow Valley Legal Description," declared a public record by Resolution 2018-1902, 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 designates the Property as 'Neighborhoods' and 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 zoned Agricultural Urban (AU) Zoning District and this request is to rezone the Property to Final Planned Area Development (PAD) Zoning District for the development of a mixed-use project known as "Rainbow Valley," which at full build out is expected to result in the development of approximately 2900 residential dwelling units, commercial uses and non-residential uses (the "Project"); and

WHEREAS, the proposed rezone is in conformance with the Land Use Plan of the General Plan and should not adversely impact the surrounding area; and

WHEREAS, the Property is not contiguous to existing City infrastructure or existing development and the policy of the City's General Plan is that new development is required to pay for the additional service demands it generates, i.e. growth pays for growth, and Owner shall be responsible for all costs associated with design, construction of infrastructure identified by the City as being needed to serve the Property, including acquisition of property needed for such infrastructure; and

WHEREAS, the Property is not currently served by City water or wastewater facilities, and it is not located within the City's Designation of Assured Water Supply; and

WHEREAS, the City's water portfolio of physically and legally available water has been developed to support development north of the City and has been funded through impact fees applicable to property north of the Property; and

WHEREAS, the City is currently updating its Integrated Water Master Plan, which will provide a detailed analysis of what facilities and resources will be needed to provide water and wastewater services to the North Waterman Wash area, which includes the Property, and which will guide the City Council's determination as to whether the City should provide water and wastewater services to the Property and under what conditions such services will be provided; and

WHEREAS, the availability of water and wastewater services to the Property is a health and safety issue and is a critical consideration for the City in the entitlement process; and

WHEREAS, the existing transportation infrastructure linking the Property to the currently developed part of the City and/or to other nearby cities and towns is minimal and may be insufficient to accommodate the transportation demands that will be generated by the eventual development of the Property; and

WHEREAS, connectivity between the Property and the developed areas within the City so that future residents within the Property have access to health care and the basic necessities is a critical consideration for the City in the entitlement process; and

WHEREAS, ensuring that future residents of the Property are not cut off from the existing developed areas of the City by the Waterman Wash, which runs through the Property, during storm events are health safety issues and are critical considerations for the City in the entitlement process; and

WHEREAS, parks, open space and recreation facilities are a vital component of enhancing the quality of life for the City's residents, and providing for the timely development of parks, open space and recreational amenities within the Property is an important consideration for the City in the entitlement process; and

WHEREAS, the City is in the process of designing and constructing a new fire station at Willis Road and Estrella Parkway (the "Estrella Fire Station"), which is being funded in part pursuant to an agreement with two property owners that includes terms regarding contributions from other properties that will be served by the fire station; and

WHEREAS, the Property will be served by the Estrella Fire Station; and

WHEREAS, although the Owner and City anticipate that the Property will be fully served by the Estrella Fire Station, actual development of the Property and surrounding area could result in response times being at unacceptable levels triggering the need for an additional fire station; and

WHEREAS, the ability of the City to provide police and fire services to the Property within the City's desired response time goals, including having adequate secondary access routes, is a health and safety issue and a critical consideration for the City in the entitlement process; and

WHEREAS, a rezoning request requires public review by the Planning and Zoning Commission and approval by the City Council; and

WHEREAS, public notice that this rezone of the Property to establish the Rainbow Valley 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, the public hearing before the Planning and Zoning Commission on September 12, 2018, was opened and continued to September 25, 2018; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on September 25, 2018 to consider the rezone of the Property to establish the Rainbow Valley PAD, and the Commission voted (4 to 1) to recommend approval of the proposed rezoning; and

WHEREAS, public notice that this rezone of the Property to establish the Rainbow Valley PAD is 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 October 5, 2018; and

WHEREAS, based on the foregoing Recitals and the other information presented, 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. 2018-1409 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located between S. Rainbow Valley Road and S. 187th Avenue, on the north side of W. Queen Creek Road, as shown on that certain document titled “Supplementary Zoning Map No. 07-23,” declared a public record by Resolution 2018-1902, 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 “Rainbow Valley Legal Description,” declared a public record by Resolution 2018-1902, 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. REZONING

The Property is hereby conditionally rezoned from the Agricultural Urban (AU) Zoning District to the Final Planned Area Development (PAD) Zoning District, by adopting that certain document titled “Rainbow Valley PAD Development Standards Book, dated August 2018,” declared a public record by Resolution 2018-1902, 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 and conditions:

1. Development of the Property shall be in conformance with the “Rainbow Valley PAD Development Standards Book, dated August, 2018” (hereinafter the “Rainbow Valley PAD”), except as modified by the following stipulations and conditions;
2. Development of the Property shall comply with the terms and conditions set forth in that certain Development Agreement for Rainbow Valley adopted by the Mayor and Council of the City of Goodyear by Resolution 2018-1908, as it may be amended and/or restated from time to time (hereinafter the “Rainbow Valley DA”). The Director of Development Services and/or the City Engineer may withhold building permits, construction permits and/or certificates of occupancy for development within the Property in the event of a failure to comply with the terms and conditions of the Rainbow Valley DA;
3. Approval of the rezoning does not constitute approval of a site plan or a plat. All future development will be subject to site plan review and approval or plat review and approval, 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;
4. The owner shall dedicate all necessary easements and rights-of-way in form and substance acceptable to the city, in conjunction with approval of a final plat or when requested by the City Engineer. These street rights-of-way include but are not limited to the half-street right of way for the sections of Rainbow Valley Road (179th Avenue alignment), Germann Road, Queen Creek Road, and Perryville Road (187th Avenue alignment) that are to be located adjacent to the Property pursuant to the City of Goodyear Transportation Master Plan in effect at the time of development and the full-street right-of-way for internal collectors;
5. The owner is responsible for the half street improvements along sections of streets within and adjacent to the Property. These streets include, but are not limited to the sections of Rainbow Valley Road (179th Avenue alignment), Germann Road, Queen Creek Road, and Perryville Road (187th Avenue alignment) that are to be located adjacent to the Property pursuant to the City of Goodyear Transportation Master Plan in effect at the time of development, and full-street improvements for all internal collector and local roadways within the Property. Such road improvements shall include, but are not limited to, bus bays, curbs, gutters, sidewalks, paving, landscaping, street signage, and lighting as identified on the appropriate plan(s) submitted to the city, which will be installed in accordance with the prevailing Engineering Design Standards at the time the improvement plans are reviewed and

approved by the City Engineer, or his designee. At the request of the City Engineer, Owner shall, in lieu of installing median improvements, submit a payment for one-half the cost of the median improvements, based upon an engineering estimate of the construction costs approved by the City Engineer, or his designee, prior to recordation of the associated final plat;

6. The owner is responsible for a proportionate share of the costs for adjacent traffic signals. The owner shall either construct these signals when warranted or pay to the city the proportionate share of the costs to install the required signals when requested by the City Engineer, or his/her designee. The following traffic signals obligations are as follows:
 - a. 50% Rainbow Valley Road and Germann Road
 - b. 50% Rainbow Valley Road and apartment parcel access if required by an approved Traffic Impact Analysis at the time of development
 - c. 50% Queen Creek Road and the major collector intersecting with Queen Creek Road if required in an approved Traffic Impact Analysis at the time of development
 - d. 25% Perryville Road and Queen Creek Road
 - e. 50% Perryville Road and Germann Road, with 25% being owed in connection with the development of Parcel 18 and 25% being owed in connection with the development of Parcel 20;
7. Owner shall construct a “high and dry” culvert and/or bridge crossing over the Waterman Wash within the Germann Road alignment, which shall be designed to exceed the base flood elevation with appropriate freeboard for a 100-year storm event. If the base flood elevation has not been established, Owner shall be responsible for preparing the reports, subject to the approval of the City Engineer or his/her designee, necessary to establish the base flood elevation for a 100-year storm event. The crossing referred to herein shall have sufficient traffic lanes to serve the estimated demands generated by the Property, which shall be determined in a City approved Traffic Impact Analysis but which shall have a minimum of two lanes. The crossing referred to herein shall be constructed and completed prior to the issuance of any building permits for vertical construction (including but not limited to building permits for model homes) south of the Waterman Wash;
8. The T-2 Trailhead reflected in the Rainbow Valley Open Space and Trails Plan of the Rainbow Valley PAD shall be located outside of the flood plain and outside of Waterman Wash somewhere within Parcel 13 and shall be located so as to provide full and safe vehicular access into T-2 Trailhead Site off of Rainbow Valley Road;
9. The Regional Multi-Use Paths located along the north and south sides of the portions of Waterman Wash located within the Property and the Regional Trail located adjacent to the western boundary of Parcel 22, which provides the property south of the Property access to the Regional Multi-Use Paths, as

depicted in the Rainbow Valley Open Space and Trails Plan of the Rainbow Valley PAD shall be designed and constructed in conformance with the recommended guidelines for Paths in the Goodyear Path/Trail System Design Guidelines attached as an appendix to the Goodyear Parks Master Plan in effect at the time of development;

10. All crossings over the Waterman Wash that cross over the Regional Multi-Use Paths shall be designed and constructed in conformance with the recommended guidelines for Paths in the Goodyear Path/Trail System Design Guidelines attached as an appendix to the Goodyear Parks Master Plan in effect at the time of development;
11. If a Private Provider that satisfies the requirements in the Rainbow Valley DA is unwilling to provide water and wastewater service to the Property and the City is unable to obtain the necessary regulatory approval to allow the City to provide water service to the Property within a new City water service area that is not within the City's current Designation of Assured Water Supply service area and the City is legally required to provide water service to the Property under the City's current Designation of Assured Water Supply service area, then, except as otherwise provided in the Rainbow Valley DA, as condition of development, Owner shall, prior to the approval of any application for final plat or construction permit and at Owner's sole cost, provide the City with a physically and legally available water supply sufficient to provide water service to the Property at build-out for 100 years, including accounting for all water demands including an estimate of water treatment losses as determined by the Public Works Director or his/her designee in the exercise of his/her reasonable discretion and that satisfies the Arizona Department of Water Resources' ("ADWR") standards for modifications of Designations of Assured Water Supply to increase the Designation water portfolio by an amount equivalent to the amount of water needed to serve the Property; provide the City with sufficient extinguishment credits or renewable supplies such as CAP water or long term storage credits sufficient to offset any anticipated Central Arizona Groundwater Replenishment District ("CAGRD") replenishment obligations associated with excess groundwater uses within the Property for 100 years (not considering any other City Designation of Assured Water Supply resources); provide the City with the legal right and permits to withdraw groundwater sufficient to provide water service to the Property at build-out for 100 years, including accounting for all water demands including an estimate of water treatment losses as determined by the Public Works Director or his/her designee in the exercise of his/her reasonable discretion;
12. If the City is legally required to provide water service to the Property under the City's current Designation of Assured Water Supply service area, Owner shall, at its sole cost, except as otherwise provided in the Rainbow Valley DA, design, install, and/or construct, all infrastructure, on-site and/or off-site,

convey all land necessary for such infrastructure, and acquire all capital equipment necessary to allow the City to provide water service to the Property at build out, which may include, by way of example but not limitation, production well fields, facilities needed for an acceptable method of brine disposal (including land if required), storage facilities, treatment infrastructure, a recharge facility and/or direct reuse facilities, and delivery infrastructure. Owner, at its sole cost, except as otherwise provided in the Rainbow Valley DA, shall be responsible for the preparation of infrastructure plans detailing public infrastructure requirements and capital equipment determined by the City as being necessary to allow the City to provide water service to the Property at build-out consistent with the uses, densities and intensities reflected in the Final PAD. Unless advised by the Director of Public Works or his/her designee that infrastructure plans and/or updated infrastructure plans are not required, Owner shall, prior to the City's approval of any application for any final plat and/or site plan, secure City approval of water and wastewater infrastructure plans, which infrastructure plans shall be prepared and sealed by a registered engineer and shall be consistent with all applicable Development Regulations, including by way of example, but not limitation, Subdivision Regulations, Engineering Design Standards and Guidelines, Engineering Standard Details, and the like, and all applicable utility master plans that are in effect when the application for approval of the water infrastructure plan is submitted to the City. Unless waived by the City Council, the water and wastewater infrastructure plan shall be designed in a cost-effective manner so that the then existing applicable utility rate is sufficient to cover at least ninety percent (90%) of the costs of providing such utility services to the Property. The water infrastructure shall be designed so that the system has enough redundancy in equipment so that it can meet the continuous maximum day capacity required for potable service to the Property; and

13. Except as otherwise provided in the Rainbow Valley DA, all public infrastructure improvements required to be designed, constructed, and/or installed in connection with the development of the Property shall be designed and constructed in accordance with applicable Development Regulations in effect when such infrastructure is constructed.
14. Notwithstanding anything to the contrary in the Rainbow Valley DA, the authority to waive the requirement that the then-existing City water rates and fees are sufficient to cover at least ninety percent (90%) of the costs of treating, including the costs of managing by-products from the treatment process, the groundwater to a level equivalent to the then-existing applicable standards and of delivering the water to the Property rests with the City Council not the Public Works Director. This stipulation may be later modified by a specific amendment to the Rainbow Valley DA should City Council later choose to delegate this authority.

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. 07-23,” declared a public record by Resolution 2018-1902, 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 07-23,” 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 or when the Development Agreement for Rainbow Valley adopted by Resolution 2018-1409 is effective, whichever occurs later.

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. 2018-1409 is a true, correct and accurate copy of Ordinance No. 2018-1409, 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