

## ORDINANCE NO. 2018-1415

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 115 ACRES LOCATED SOUTH OF THE SOUTHWEST CORNER OF CAMELBACK ROAD AND COTTON LANE, BY REMOVING THE CAMELBACK 303 COMMERCE PARK PLANNED AREA DEVELOPMENT OVERLAY AND REZONING THE PROPERTY TO I-1, LIGHT INDUSTRIAL; 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 December 11, 2006, the City Council of the city of Goodyear, in a manner prescribed by law, adopted Ordinance No. 2006-1056, conditionally approving the rezoning (Case No. 06-200-00010) of 134.3 gross (126.9 net) acres (the gross acreage includes adjacent half-streets calculated to the street monument lines and the net acreage is exclusive of existing rights of way) to Light Industrial (I-1) and General Commercial (C-2) zoning districts with a Final Planned Area Development (PAD) overlay to allow for a development known as Camelback 303 Commerce Park, generally located at the southwest corner of Camelback Road and Cotton Lane; and

WHEREAS, this request is intended to remove the Final Planned Area Development (PAD) overlay from approximately 114 acres, as more specifically described in that certain document titled "Exhibit A – Legal Description," declared a public record by Resolution No. 2018-1915, 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 is fully set forth in this Ordinance (hereinafter referred to as the "Exhibit A – Legal Description"), from Final PAD to Light Industrial (I-1), and is hereinafter referred to as the "Property"; and

WHEREAS, city staff finds that the proposed rezoning will not adversely impact the surrounding area as the proposed I-1 and zoning will allow for the orderly growth and continued development of light industrial uses at the southwest corner of Camelback Road and Cotton Lane; 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 November 14, 2018, appeared in the Arizona Republic Southwest Valley edition on October 26, 2018; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on November 14, 2018, and at that meeting the Commission voted **X-X to recommend/not recommend approval** of the proposed rezoning; and

WHEREAS, public notice that this rezoning was to be considered and reviewed at a public hearing held before the City Council on November 26, 2018, appeared in the Arizona Republic Southwest Valley edition on October 26, 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. REZONING

Subject to the stipulations in Section 2 below, the property legally described in that certain document titled “Liberty Property Trust PV303 – Exhibit A – Legal Description”, which document was declared a public record by Resolution No. 2018-1915, 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”), is hereby conditionally rezoned to the Light Industrial (I-1) Zoning District.

SECTION 2. STIPULATIONS

1. Development of the Property shall comply with the I-1, Light Industrial 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. Approval of rezoning does not constitute approval of the site plans or elevations;
3. Uses permitted under the I-1 Light Industrial District Zoning are prohibited unless they are identified as being permissible for property within the 65-69 Decibels Noise Level in the table set forth in A.R.S. § 28-8481(J) except if the proposed use is expressly approved by the appropriate authority at Luke Air Force Base as being compatible and consistent with the high noise or accident potential of Luke Air Force Base;
4. Luke Air Force Base shall have an opportunity to provide comment on all further applications submitted to the Development Services Department that pertain to the Property prior to the issuance of a building permit. The Owner shall comply with any and all comments from Luke Air Force Base;
5. The Owner shall provide for a waiver agreement, which shall run with the land, for each initial property owner to sign, and shall include the following statement in the waiver agreement: “The property 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 current owner does release and discharge the City of Goodyear, Developer and prospective property owners from any liability for any and

all claims for future damages and complaints of any kind to persons or property that may arise at any time in the future from the operation of such aircraft near and over the area”;

6. Except as provided herein, Owner shall construct the applicable water and sewer infrastructure improvements identified in the Integrated Water Master Plan (“IWMP”) in effect at the time of development. Per the current IWMP, the parcels within Section 23, including the Liberty 303 property, are planned to flow to the regional lift station. Should Owner desire a different wastewater solution than reflected in the existing IWMP, Owner shall, at Owner’s sole cost, either: (i) obtain the approval of the City Engineer and City Council of both an amendment to the IWMP and the termination of the existing Cost Recovery Resolution 08-1279, which provides cost recovery for certain of the infrastructure improvements needed to provide wastewater service within Section 23 pursuant to the current IWMP; or (ii) obtain the approval of the City Engineer and City Council of both a Master Wastewater Study for Section 23 and the termination of the existing Cost Recovery Resolution 08-1279, which provides cost recovery for certain of the infrastructure improvements needed to provide wastewater service within Section 23 pursuant to the current IWMP. Any IWMP Amendment or Master Wastewater Study for Section 23 shall provide for an alternative water and sewer solution for all of the properties within Section 23 and for every property impacted by the changes to the current IWMP. Unless a Master Wastewater Study for Section 23 and termination of Cost Recovery Resolution 08-1279 has been approved by the City Engineer and City Council prior to preliminary plat approval, Owner shall construct the applicable water and sewer infrastructure improvements identified in the Integrated Water Master Plan (“IWMP”) in effect at the time of preliminary plat approval. If a Master Wastewater Study for Section 23 and termination of Cost Recovery Resolution 08-1279 has been approved by the City Engineer and City Council prior to preliminary plat approval, Owner shall construct the applicable water and sewer infrastructure improvements identified in the Master Wastewater Study for Section 23;
7. Owner shall underground all permanent utilities, excluding power lines 69 kV or larger, within the Property, and abutting the Property’s portion of perimeter arterial streets prior to issuance of the first Certificate of Occupancy within the Property;
8. 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. West half of Cotton Lane right-of-way, 65 feet from centerline;
9. The Owner shall construct, at no cost to the City, the half-street improvements for Cotton Lane adjacent to the subject property. Improvements shall include but are not limited to curb, gutter, sidewalk, paving, half street width of the median, 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;

10. The Owner/Developer of the Property is responsible for 25% of the cost to install a traffic signal at the intersection of Cotton Lane and Minnezona Avenue. If warranted the Owner/Developer will be responsible to construct the signal at the time of development. If not warranted or if the traffic signal was constructed by others, an in-lieu payment of 25% of the cost of the traffic signal shall be collected prior to issuance of the first building permit within the Property. The in-lieu payment shall be based on the actual cost of the traffic signal if it has already been constructed or upon an engineer's estimate of the probably cost of such signal, which shall be approved by the City Engineer or his/her designee;
11. If the property is further subdivided, a Property Owners Association shall be established to enforce any land use covenants and to ensure a mechanism of all interior private open space areas and rights-of-way landscaping as required pursuant to applicable City of Goodyear, codes, ordinance and regulations;
12. The owner shall be required to adopt noise mitigation technologies during the site plan review processes to minimize noise spill-over into residential neighborhoods;
13. The owner shall execute an avigation easement over the Property, record the document in the Maricopa County Recorder's office and provide the Development Services Director, or his designee, with a copy of the recorded easement prior to approval of any final plat or site plan for the Property. Said easement shall be in form and substance acceptable to the Development Services Director, or his designee;
14. The development of the Property shall comply with dark sky principles by limiting the amount of light "spillage" or trespassing into abutting residential neighborhoods, and general light pollution. A photometric plan and lighting standards shall be submitted with all site plan applications for development within the Property. The maintained average luminance over the entire site shall be no greater than 4.0 foot candles or, if a new standard has been established by the City, the maintained average luminance shall comply with the prevailing standard at the time of site plan submittal. Building mounted lighting shall include "house-side-shields" and cutoffs to reduce hot spots;
15. The required setbacks for development of the Property adjacent to planned or existing residential use shall be:
  - a. Minimum 60' building setback from the property line;
  - b. Minimum 30' landscape setback from the property line;

- c. Dock doors must be set back 120' from the property line;
- 16. Building height shall be limited to 30' for buildings within 50' of the property line adjacent to planned or existing residential uses;
- 17. If and Owner/Developer fails to comply with any of the stipulations contained in this Ordinance or fails to comply with any other applicable City codes and regulations, including the Engineering Design Standards and Policies, applicable to the development of the Property, the Engineering Director, Development Service Director and/or their respective designees may suspend issuance of building or construction permits within the Property until the violation has been cured.

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. 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. 18-09," declared a public record by Resolution No. 2018-1915, 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 5. 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 6. 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 7. 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 8. 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

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. 2018-1415 is a true, correct and accurate copy of Ordinance No. 2018-1415, 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