

ORDINANCE NO. 2018-1413

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING THE PROPERTY WITHIN THE LUCERO FINAL PLANNED AREA DEVELOPMENT CONSISTING OF APPROXIMATELY 617 ACRES, GENERALLY LOCATED ON THE WEST SIDE OF ESTRELLA PARKWAY, SOUTH OF THE ESTRELLA STAR TOWER, TO THE INTERSECTION OF ESTRELLA PARKWAY AND COTTON LANE, BY ADOPTING THE LUCERO FINAL PAD DATED OCTOBER 2018, WHICH INCLUDES TWO NEW NOTES IN THE DEVELOPMENT STANDARDS, AFFECTING FOUR PARCELS; 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 June 22, 1987, the City Council adopted Ordinance No. 87-217 rezoning approximately 3,500 acres as Planned Area Development (PAD) and adopting the Estrella Phase One PAD; and

WHEREAS, on January 12, 2009, the City Council adopted Ordinance No. 09-1157 amending the Phase One PAD by rezoning approximately 25.4 acres of the Subject Property from PAD Office to PAD Horizontal Mixed Use; and

WHEREAS, on October 28, 2013, the City Council adopted Ordinance No. 13-1288 amending the Phase One PAD by rezoning approximately 617 acres as PAD and adopting the Callisto PAD Amendment dated September 6, 2013; and

WHEREAS, on June 13, 2016, the City Council adopted Ordinance No. 16-1333 amending the Callisto PAD, by adopting the Lucero PAD Amendment; and

WHEREAS, this request is to amend the Lucero PAD Amendment to modify the development standards applicable to four parcels within the Property by allowing front yard setback for parcels 5 and 10 to be 10' to livable space and by allowing side yard setbacks for parcels 1a and 1b to be 5'; and

WHEREAS, this amendment replaces the Lucero PAD Amendment book dated March 18, 2016 with the Lucero Planned Area Development Amendment book dated October 2018, which incorporates the modified development standards and which deletes a provision that had been included in the Lucero PAD Amendment book dated March 18, 2016 but that had been deleted by stipulation in Ordinance 13-1288; and

WHEREAS, due and proper notice of such public hearings before the city of Goodyear Planning and Zoning Commission and City Council was given in the time, form, substance and manner provided by law, including publication of such notice in the ARIZONA REPUBLIC SOUTHWEST EDITION on October 26, 2018; and

WHEREAS, the city of Goodyear Planning and Zoning Commission has recommended to the Mayor and City Council of the city of Goodyear, Arizona, that it approve this rezoning and adoption of the Lucero PAD, as aforesaid, subject to certain stipulations; and

WHEREAS, on November 26, 2018, in the manner provided by law, the city of Goodyear City Council held a public hearing on Case No. 18-210-00006 for the purpose of considering this PAD Amendment; and

WHEREAS, based on the information submitted by the applicant and the review conducted by city staff and the recommendation provided by the Planning and Zoning Commission for its consideration at said public hearing, the City Council finds that the proposed PAD Amendment is appropriate on the Property and will not be detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public 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 AMENDED

This Ordinance No. 2018-1413 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located on the west side of Estrella Parkway, south of the Estrella Star Tower, to the intersection of Estrella Parkway and Cotton Lane, as shown on that certain document titled, “Supplementary Zoning Map No. 18-06A,” which document was declared a public record by Resolution No. 2018-1913 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 “Lucero Legal Description,” (the “Property”), which document was declared a public record by Resolution No. 2018-1913, 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, “Lucero PAD Amendment October 2018,” which document was declared a public record by Resolution No. 2018-1913, 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 stipulations:

1. Compliance with all stipulations of approval and the Estrella Phase One PAD as contained in Ordinance No. 87-217, the stipulations of approval and the Estrella North Community Service Core (Parcels 12, 14 & 45) Final PAD Amendment dated November 4, 2008 as contained in Ordinance 09-1157, the stipulations of approval and the Callisto PAD Amendment dated September 6, 2013 as contained in Ordinance No. 13-1288, as modified by the stipulations of approval and the Lucero PAD dated March 18, 2016 as contained in Ordinance 16-1333, as modified by the stipulations of approval set forth herein and the Lucero PAD dated October 2018;
2. All development within the subject property shall be in substantial compliance with the development concepts and design standards in the city of Goodyear Design Guidelines as modified, except as modified by the Callisto PAD Amendment dated September 6, 2013 and the stipulations of approval contained in Ordinance 13-2188, as modified by the Lucero PAD Amendment dated March 18, 2016 and the stipulations of approval of the Lucero PAD Amendment dated March 18, 2016 contained in Ordinance 16-133, as modified by the Lucero PAD dated October 2018 and the stipulations of approval of the Lucero PAD Amendment dated October 2018 as set forth herein;
3. All amendments to the Lucero PAD shall be processed pursuant to the requirements under state law and the city of Goodyear's Zoning Ordinance for rezoning. No amendments to the PAD shall be approved administratively;
4. In the event of conflict between the Estrella Phase One PAD dated October 28, 1986 and any conditions of approval, the Estrella North Community Service Core (Parcels 12, 14 & 45) Final PAD Amendment dated November 4, 2008 and any conditions of approval, the Callisto PAD Amendment dated September 6, 2013 and any conditions of approval the Lucero PAD dated March 18, 2016 and any conditions of approval, and the Lucero PAD dated October 2018 and any conditions of approval herein, the requirements of the PAD and conditions of approval most recently adopted shall prevail;
5. Unless the city agrees to and acquires the reclaimed water delivery system within Estrella, reclaimed water service is not being provided by the city; and
6. If the developer fails to comply with any of the stipulations contained herein or fails to comply with any other city codes and regulations in the development of the property, then the city Engineer, or designee, may suspend the issuance of building and construction permits for the project until the developer cures the item in default.

SECTION 4. AMENDMENT OF ZONING MAP.

The Zoning Map of the city of Goodyear is hereby amended to reflect the changes set forth in Section 1 of this Ordinance by the adoption of that certain document titled “Supplementary Zoning Map 18-06A,” and legally described in that certain document titled, “Lucero Legal Description,” both documents which were declared public records by Resolution 2018-1913, 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 and abridgment of any other ordinance regulation or requirement of the city of Goodyear.

SECTION 6. SEVERABILITY.

If any provision of this Ordinance is for any reason held invalid by any court or competent jurisdiction such provision shall be deemed as separate distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 7. 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

 - 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:

 Darcie McCracken, City Clerk

APPROVED AS TO FORM:

 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. 2018-1413 is a true, correct and accurate copy of Ordinance No. 2018-1413, 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