

ORDINANCE NO. 2018-1418

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, REZONING APPROXIMATELY 279 ACRES OF LAND LOCATED BETWEEN THE NORTH SIDE OF BROADWAY ROAD AND THE SOUTH SIDE OF MC-85 AND EXTENDING FROM EAST OF BULLARD AVENUE TO WEST OF LITCHFIELD ROAD, FROM THE FINAL PLANNED AREA DEVELOPMENT (PAD) ZONING DISTRICT WITH UNDERLYING C-2 (GENERAL COMMERCIAL), I-1 (LIGHT INDUSTRIAL PARK), AND I-2 (GENERAL INDUSTRIAL) ZONING TO THE I-1 (LIGHT INDUSTRIAL) ZONING DISTRICT WITH A PAD OVERLAY, 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 April 8, 1985, the Town of Goodyear Council rezoned approximately 430 acres on the east side of Bullard Avenue and the north side of Broadway Road, extending eastward to the intersection of Litchfield Road and MC-85; and

WHEREAS, the rezone was from a mix of hard C-2 (General Commercial), I-1 (Light Industrial Park), and I-2 (General Industrial) zoning to the Final Planned Area Development (PAD) zoning district with underlying C-2 (General Commercial), I-1 (Light Industrial Park), and I-2 (General Industrial) zoning; and

WHEREAS, the property owner (the "Owner") currently owns approximately 279 acres of the 430 acres, generally located between the north side of Broadway Road and the south side of MC-85 and extending from east of Bullard Avenue to west of Litchfield Road and as more particularly described in that certain document titled "PHX 10-11 Legal Description," declared a public record by Resolution 2018-1920, 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, this request is to rezone the Property to the I-1 (Light Industrial) zoning district with a PAD Overlay for the development of a five-building technology center (the "Project") on the Property; and

WHEREAS, the General Plan Land Use Plan designates the Property, and adjacent property, as 'Industrial' and the 'Industrial' land use category provides areas for more intensive business and employment uses which have a greater impact on surrounding land uses; 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 proposed PAD Overlay would allow for deviation from the City Design Guidelines, allowing for other things, metal buildings that do not meet the requirements for metal buildings and the use of chain link fences; and

WHEREAS, the deviation from the City's Design Guidelines is appropriate for this location; and

WHEREAS, the Project will occur in the vicinity of MC-85, the Union Pacific Railroad, and the Phoenix-Goodyear Airport; highly industrialized transportation corridors and an airport with many existing metal buildings; and

WHEREAS, the Project will occur in the vicinity of a sand and gravel operation; and

WHEREAS, the Project will occur in the vicinity of older industrial buildings constructed before the adoption of the current City Design Guidelines; and

WHEREAS, the Project will occur in a 279-acre five-building campus setting with only two street frontages; Broadway Road and MC-85, allowing for significant buffering of the five buildings; and

WHEREAS, the Project will not occur on a scenic arterial or a major arterial such as Estrella Parkway or Cotton Lane; it will occur on Broadway Road, a minor arterial, and on MC-85, a County roadway; and

WHEREAS, the Project will not occur in the vicinity of Interstate 10 or State Road 303; high volume, modern transportation corridors; and

WHEREAS, the Project will not occur in the vicinity of city high-traffic corridors such as Cotton Lane and Estrella Parkway that extend from north of Interstate 10 to south of the Gila River, and as such, will occur in an isolated destination location; and

WHEREAS, the Project will not occur in the vicinity of residential development; an adjacent use for which compliance with the City Design Guidelines would be essential; and

WHEREAS, the Project will also incorporate perimeter berming and landscaping, as well as setting back the equipment yard and metal buildings 350 feet from the property line adjacent to Broadway Road and the property line adjacent to MC-85 to ensure that the metal buildings, equipment, and chain link fencing are partially screened from the public right-of-way and the adjoining properties; 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 was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on December 5, 2018, appeared in the Arizona Republic Southwest Valley edition on November 16, 2018; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on December 5, 2018 to consider the rezone of the Property, and the Commission voted (X to X) to recommend XXXX of the proposed rezoning; and

WHEREAS, public notice that this rezone of the Property is to be considered and reviewed at a public hearing held before the City Council on December 17, 2018, appeared in the Arizona Republic Southwest Valley edition on November 16, 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. 2018-1418 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located between the north side of Broadway Road and the south side of MC-85 and extending from east of Bullard Avenue to west of Litchfield Road, as shown on that certain document titled “Supplementary Zoning Map No. 18-12,” declared a public record by Resolution 2018-1920, 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 “PHX 10-11 Legal Description,” declared a public record by Resolution 2018-1920, 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 Final Planned Area Development (PAD) Zoning District to the Light Industrial (I-1) Zoning District with a PAD Overlay by the adoption of that certain document titled “PHX 10-11 I-1, Light Industrial Park Zoning District with PAD Overlay, dated November 2018,” declared a public record by Resolution 2018-1920, 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 I-1 (Light Industrial) Zoning District Criteria except as modified by the “PHX 10-11 I-

- 1, Light Industrial Park Zoning District with PAD Overlay, dated November 2018,” (hereinafter the “PAD Overlay”), except as modified by the following stipulations and conditions;
2. The Project shall comply the sight visibility and mitigation measures reflected in the PH10-11 Sight Visibility and Mitigation exhibit, dated November 2018 attached ot the PHZ 10-11 I-1, Light Industrial Park Zoning District with PAD Overlay;
3. In addition to the visibility and mitigation measures reflected in the PH10-11 Sight Visibility and Mitigation exhibit, dated November 2018, the berms depicted on the exhibit shall be undulating so that the berms do not have the appearance of a dike, and the berms shall also be developed in sections, and at angles, to add visual interest as well as screening;
4. Any tree, shrub or groundcover planted on the Property and within the Broadway Road or MC-85 rights-of-way, pursuant to the PHX10-11 Sight Visibility and Mitigation exhibit, dated November, 2018, and attached to the PHX 10-11 I-1, Light Industrial Park Zoning District with PAD Overlay, dated November 2018, that does not survive, regardless of cause, shall be replaced by Owner within 30 days of written notification from the city;
5. The outdoor equipment yard and the metal buildings shall be setback a minimum of 350 feet from the property line adjacent to MC-85 and from the property line adjacent to Broadway Road;
6. With the development of the third, or any additional technology center buildings, the berming and landscaping mitigation on the east and west property lines of the Property, as shown on the PHX10-11 Sight Visibility and Mitigation exhibit, dated November, 2018, must be extended from the limits of the berming and landscaping mitigation installed by Owner with the first two technology center buildings, to a distance 100 feet north of the northern boundary of the site of the additionl technology center buildings, prior to the issuance of any certificate of occupancy for any additional technology center building;
7. With the development of any technology center building(s) within 350 feet of the MC-85 southern right-of-way line, the Broadway Road berming and landscaping mitigation, as shown on the PHX10-11 Sight Visibility and Mitigation exhibit, dated November, 2018, shall be installed by Owner adjacent to the MC-85 frontage prior to the issuance of any certificate of occupancy for any technology center building within 350 of the MC-85 southern right-of-way line;
8. The City has committed to providing water service to the Property subject to the delivery of a maximum of 5 million gallons per day (MGD). Should additional water supplies in excess of 5 MGD be required and except as otherwise provided in a development agreement approved by City Council,

Owner shall, at Owner's sole cost, provide the City with a physically and legally available water supply sufficient to provide the additional water service needed to serve the Property 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 the additional water needed to serve the Property and that provides for sufficient extinguishment credits or renewable supplies to offset the additional water demands;

9. Except as otherwise provided in a development agreement approved by City Council, Owner shall, at its sole cost, 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 and wastewater service to the Property at build out;
10. Owner shall provide updated Traffic Impact Analyses that include a Traffic Signal Needs Assessment that meets industry standards and the requirements of the Engineering Design Standards and Policies, as amended, and has been approved by the City Engineer or his/her designee. Such analyses are required for master site plans, site plans, and when otherwise required by applicable Development Regulations. Except as otherwise provided in a development agreement approved by the City Council, Owner shall, at its sole cost, design, install, and/or construct, all on-site transportation-related infrastructure and all off-site transportation-related infrastructure, including traffic signals, necessary to provide for safe and adequate circulation within the Property, connectivity to neighboring adjacent properties, and connectivity to existing and future regional transportation routes. The transportation-related infrastructure to be installed and/or constructed shall include the infrastructure improvements specifically identified herein, the infrastructure improvements required to be constructed pursuant to applicable Development Regulations, and any additional infrastructure identified in any Traffic Impact Analysis; and
11. Except as otherwise provided in a development agreement approved by Council, Owner shall, at its sole cost and expense, design and construct full half-street improvements to the section of Broadway Road adjacent to the Property in accordance with all applicable City of Goodyear requirements, including, the City of Goodyear Engineering Design Standards and Guidelines and Engineering Standard Details. Notwithstanding the forgoing, if Broadway Road has not been annexed into the City when the improvements to Broadway Road referred to herein are undertaken, then the half-street improvements to Broadway Road shall be designed and constructed pursuant to the requirements of Maricopa County if the requirements of Maricopa County are more stringent than the City of Goodyear requirements.

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. 18-12,” declared a public record by Resolution 2018-1920, 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 18-12,” 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.

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. 2018-1418 is a true, correct and accurate copy of Ordinance No. 2018-1418, 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