

ORDINANCE NO. 2018-1417

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY AMENDING THE PALM VALLEY PHASE V PLANNED AREA DEVELOPMENT (PAD) TO MODIFY THE DEVELOPMENT STANDARDS APPLICABLE TO AN APPROXIMATELY 15.9-ACRE PARCEL LOCATED AT THE NORTHEAST CORNER OF INDIAN SCHOOL ROAD AND FALCON DRIVE WITHIN THE PALM VALLEY PHASE V PAD; 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, the subject property (the “Property”) consists of approximately 15.9 acres generally located at the northeast corner of Indian School Road and Falcon Drive, legally described in that certain document titled “Aviva Goodyear – Legal Description,” which document was declared a public record by Resolution No. 2018-1919, 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,

WHEREAS, the Property is designated as “Neighborhood” on the General Plan Land Use and Transportation Plan. This land use category provides areas for the growth and development of neighborhoods, which include a wide range of densities and housing products that suit the needs of existing and future residents; and,

WHEREAS, the Property is zoned Planned Area Development (PAD). The PAD is known as Palm Valley Phase V. The PAD was approved with the adoption of Ordinance No. 03-858 on August 11, 2003; and,

WHEREAS, pursuant to the Palm Valley Phase V PAD, the Property is designated as High Density Residential (UR/H), and is permitted to develop at a maximum residential density of 18 units per acre; and,

WHEREAS, pursuant to the Palm Valley Phase V PAD and conditions of approval adopted with Ordinance No. 03-858, the development standards and requirements of the city’s MF-18 (Multi-Family Residential) zoning district are applicable to the Property; and,

WHEREAS, a site plan to construct a 288-unit multi-family complex on the Property was approved on December 18, 2007. However, the multi-family complex was never developed, and the site plan has since expired; and,

WHEREAS, the developer intends to develop a 288-unit multi-family complex on the Property in conformance with the density permitted by the Palm Valley Phase V PAD; and,

WHEREAS, the request for PAD Amendment is to modify several of the development standards applicable to Property, including: maximum building height, minimum rear yard setback, minimum patio area, landscape setback, and maximum outdoor lighting fixture height; and,

WHEREAS, a request to amend an approved PAD requires public review and approval by the Planning and Zoning Commission and the City Council. As established in the city of Goodyear Zoning Ordinance, the proposed PAD Amendment must be in conformance with the General Plan and should not adversely impact the surrounding area; and,

WHEREAS, staff has determined that the proposed PAD Amendment request is in conformance with the General Plan and will not adversely impact the surrounding area; and,

WHEREAS, public notice that this PAD Amendment was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on January 9, 2019 appeared in the Arizona Republic Southwest Valley edition on December 21, 2018; and,

WHEREAS, a public hearing was held before the Planning and Zoning Commission on January 9, 2019, to consider this PAD Amendment, and the Commission voted (---) to recommend _____ of the rezoning; and,

WHEREAS, public notice that this PAD Amendment is to be considered and reviewed at a public hearing held before the City Council on January 28, 2019, appeared in the Arizona Republic Southwest Valley edition on December 21, 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. 2018-1417 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located at the northeast corner of Indian School Road and Falcon Drive, as shown on “Official Supplementary Zoning Map No. 18-07A City of Goodyear, AZ – PAD Amendment,” and as legally described in that certain document titled “Aviva Goodyear – Legal Description,” both documents having been declared public records by Resolution No. 2018-1919, with three copies of both documents being on file with the City Clerk of the city of Goodyear, Arizona, and which documents are referred to and made a part hereof as if fully set forth in this Ordinance (the “Property”).

SECTION 2. PLANNED AREA DEVELOPMENT AMENDMENT

The Property is conditionally rezoned to amend the Palm Valley Phase V Planned Area Development adopted by Ordinance No. 2003-858 by adopting the Major Amendment to the Palm Valley Phase V Planned Area Development for Aviva Goodyear dated November 30, 2018, which document was declared a public record by Resolution No. 2018-1919 and 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 “Aviva Goodyear PAD Amendment”).

SECTION 3. STIPULATIONS

The development of the Property shall be subject to the following stipulations:

1. Except as otherwise modified by the stipulations herein, Owner shall comply with and the Property shall be developed in accordance with the requirements of Ordinance 2003-858, including the conditions and stipulations set forth therein;
2. Except as otherwise modified by the stipulations herein, the Property shall be developed in conformance with that certain document titled Major Amendment to the Palm Valley Phase 5 Planned Area Development for Aviva Goodyear dated November 30, 2018, which document was declared a public record by Resolution No. 2018-1919 and 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 “Aviva Goodyear PAD Amendment”), including limited to, the provision of the recreational amenities, building elements, architectural features, elevations and interior features described in the Aviva Goodyear PAD Amendment;
3. Except as otherwise modified by the stipulations herein, the principal permitted uses, permitted accessory uses, use permit uses, special uses and development regulations as established in the city of Goodyear Zoning Ordinance applicable to the MF 18/24 (Multi-Family Residential) zoning district, and other provisions in the Goodyear Zoning Ordinance applicable to the MF 18/24 (Multi-Family Residential) zoning district, including parking requirements, shall apply to the development of the Property;
4. The maximum building height shall be 37 feet. Unoccupied architectural elements, decorations and towers, and parapet walls may be constructed to a maximum height of 45 feet;
5. Any building taller than 30 feet shall be located at least 225 feet from the property line of any existing single family residence, 100 feet from the right-of-way for Falcon Drive, and 175 feet from the right-of-way for Indian School Road;
6. The rear yard building and landscape setback (along east property line) shall be a minimum of 30 feet from the property line;
7. All second and third story units shall have a balcony with a minimum area of 45 square feet, with no dimension for length or width less than five feet and

all ground floor units shall have a patio with a minimum area of 100 square feet;

8. A 30-foot wide landscape buffer shall be placed along the south property line (adjacent to drainage channel and Indian School Road). Recreational amenities, such as a dog park, ramada, playground equipment or sports court, along with a six foot screening wall as approved by the City may be placed within the landscape buffer. However, no parking spaces, drive aisles, nor multi-family buildings may be located within the buffer;
9. The development shall provide at least 127,000 square feet of recreational open space that is readily accessible and usable by the residents. This requirement for minimum open space shall be clearly demonstrated with the site plan submittal;
10. The maximum height of outdoor lighting fixtures, located within 30 feet of the south property line (adjacent to drainage channel and Indian School Road), shall be 15 feet;
11. The property owner and/or developer shall post signage within the leasing office on the Property identifying the location of Luke Air Force Base (LAFB) along with the Accident Potential Zones, 65 Ldn and higher noise contours, and departure corridors associated with LAFB. The signage shall also show the location of the Phoenix-Goodyear Airport and associated traffic pattern and noise contours. The display shall be at least 24" by 36" in size and be prominently displayed;
12. The property owner and/or developer shall construct sidewalk connections over city-owned property so that the sidewalks being constructed within the Property connect to existing city of Goodyear sidewalks located to the north and east of the Property; and,
13. The property owner and/or developer shall provide a gate with automatic pre-emption device, acceptable to the city of Goodyear Fire Chief or designee, for the emergency access point to Falcon Park.

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 "Official Supplementary Zoning Map No. 18-07A City of Goodyear, AZ – Rezone Case," declared a public record by Resolution No. 2018-1914, 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 "Official Supplementary Zoning Map No. 18-07A City of Goodyear, AZ – Rezone Case," 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 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 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. 2018-1417 is a true, correct and accurate copy of Ordinance No. 2018-1417, 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