

ORDINANCE NO. 2019-1422

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, REZONING APPROXIMATELY 95 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF BULLARD AVENUE AND VAN BUREN STREET, FROM THE AU (AGRICULTURAL URBAN) ZONING DISTRICT TO THE I-1 (LIGHT INDUSTRIAL PARK), C-2 (GENERAL COMMERCIAL), AND MF-24 (MULTI-FAMILY) ZONING DISTRICTS 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, the subject property (the “Property”) consists of approximately 95 acres generally located at the southwest corner of Bullard Avenue and Van Buren Street, legally described in that certain document titled “Goodyear Airport Commons Legal Description,” which document was declared a public record by Resolution No. 2019-1927, 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 ‘Business & Commerce’ on the General Plan Land Use and Transportation Plan, and this land use category encourages community level retail, service oriented local businesses, business parks, offices, high density residential, warehouses and light industrial use; and

WHEREAS, the Property is currently zoned AU (Agricultural Urban); and

WHEREAS, the Property Owner (the “Owner”) is seeking a rezoning of the Property from the AU (Agricultural Urban) zoning district to the I-1 (Light Industrial Park), C-2 (General Commercial), and MF-24 (Multi-family Residential) zoning districts with a PAD Overlay; and

WHEREAS, the Owner intends to develop a mixed use project on the Property consisting of a retail focused commercial corner, a dense multi-family component, and an industrial employment component, in accordance with the requested I-1 (Light Industrial Park), C-2 (General Commercial), and MF-24 (Multi-family Residential) zoning districts with a PAD Overlay; and

WHEREAS, the PAD Overlay includes a 5-acre Flex Zoning designation located between the MF-24 (Multi-family Residential) parcel and the C-2 (General Commercial) parcel to allow for the 5 acres to be combined with either the MF-24 parcel or the C-2 parcel, as shown on the Preliminary Development Plan attached to the PAD Overlay; and

WHEREAS, staff has determined that the proposed rezoning request is consistent with the General Plan and shall not adversely impact the surrounding area; 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 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 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 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. 2018-1422 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located at the southwest corner of Bullard Avenue and Van Buren Street, as shown on that certain document titled “Supplementary Zoning Map No. 18-11,” declared a public record by Resolution 2018-1927, 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 “Goodyear Airport Commons Legal Description,” declared a public record by Resolution 2018-1927, 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 AU (Agricultural Urban) to the I-1 (Light Industrial Park), C-2 (General Commercial), and MF-24 (Multi-family Residential) Zoning Districts with a PAD Overlay by the adoption of that certain document titled “Goodyear Airport Commons PAD Overlay, dated December, 2018,” declared a public record by Resolution 2018-1927, 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 (hereinafter referred to as the “Goodyear Airport Commons PAD Overlay”).

SECTION 3. STIPULATIONS

The development of the Property is subject to the following stipulations and conditions:

1. Development of the portion of the Property zoned I-1 (Light Industrial Park) shown in the Goodyear Airport Commons PAD Overlay, shall be in conformance with the I-1 (Light Industrial Park), Zoning District Criteria, except as modified by the Goodyear Airport Commons PAD Overlay, which is adopted herein, and except as modified by the following stipulations and conditions;
2. Development of the portion of the Property zoned C-2 (General Commercial) shown in the Goodyear Airport Commons PAD Overlay, shall be in conformance with the C-2 (General Commercial) Zoning District Criteria, except as modified by the Goodyear Airport Commons PAD Overlay and except as modified by the following stipulations and conditions;
3. Development of the portion of the Property zoned MF-24 (Multi-Family Residential) shown in the Goodyear Airport Commons PAD Overlay, shall be in conformance with the MF-24 (Multi-family Residential) Zoning District Criteria, except as modified by the Goodyear Airport Commons PAD Overlay and except as modified by the following stipulations and conditions;
4. Development of the 5-acre Flex Zoning parcel located between the MF-24 (Multi-family Residential) parcel and the C-2 (General Commercial) parcel, as shown in the Goodyear Airport Commons PAD Overlay shall be in conformance with the MF-24 (Multi-Family Residential) Zoning District Criteria except as modified by the Goodyear Airport Commons PAD Overlay and except as modified by the following stipulations and conditions if the Flex Zoning Parcel is developed as multi-family residential;
5. Development of the 5-acre Flex Zoning parcel located between the MF-24 (Multi-family Residential) parcel and the C-2 (General Commercial) parcel, as shown in the Goodyear Airport Commons PAD Overlay shall be in conformance with the C-2 (General Commercial) Zoning District Criteria except as modified by the Goodyear Airport Commons PAD Overlay and except as modified by the following stipulations and conditions if the Flex Zoning Parcel is developed as general commercial;
6. Owner shall install a 10-foot wide landscaped buffer on the Property along the western boundary of the MF-24 (Multi-Family Residential) parcel adjacent to the City Owned Bullard Wash property, which shall be completed prior to the issuance of any certificate of occupancy within the MF-24 (Multi-family Residential) parcel;
7. Owner shall install a 10-foot wide landscaped buffer on the Property along the western boundary of the I-1 (Light Industrial Park) adjacent to the City owned Bullard Wash property, which shall be completed prior to the issuance of any certificate of occupancy within the I-1 (Light Industrial Park) parcel;

8. Owner shall provide internal pedestrian connectivity between the MF-24 (Multi-family Residential) parcel, the I-1 (Light Industrial Park) parcel, the C-2 (General Commercial) parcel, and the Flex Zoning parcel as it may develop as either MF-24 (Multi-family Residential) or C-2 (General Commercial). The design of the improvements providing the required pedestrian connection (“Pedestrian Connection Improvements”) shall consist of a 9-foot sidewalk connecting all uses as illustrated on the Preliminary Development Plan attached to the Goodyear Airport Commons PAD Overlay, which exhibit presumes the Flex Zoning Parcel being C-2 (General Commercial). The Pedestrian Connection Improvements shall be completed prior to the issuance of any certificate of occupancy within the zoning district parcels in which the improvements are to be constructed;
9. Owner shall channelize the portion of the Bullard Wash adjacent to the Property pursuant to an approved CLOMR/LOMR process to bring that portion of the Property that is currently in the floodplain out of the floodplain;
10. A CLOMR for the Property must be approved by the city of Goodyear prior to first submittal of civil construction documents and must be approved by FEMA prior to issuance civil construction permits;
11. Owner shall design and construct within the City owned Bullard Wash property adjacent to the western boundary of the Property, a 10 to 12-foot paved path with an adjacent 4-foot unpaved compacted DG shoulder, along with a landscaped buffer of 10 feet on each side of the paved path and DG shoulder, consistent with the Trail Section depicted in the Goodyear Airport Commons PAD Overlay (the “Path Improvements”). The preliminary design of the Path Improvements must be approved prior to or concurrent with the approval of the first site plan within either the MF-24 (Multi-family Residential) parcel or the I-1 (Light Industrial Park) parcel, and the Path Improvements shall be completed prior to the issuance of any certificate of occupancy within either the I-1 Light Industrial Park) parcel or the MF-24 (Multi-family Residential) parcel;
12. The Property shall be developed in substantial conformance with the design strategies as established within that certain document titled “Bullard Avenue Corridor Design Treatment Strategies November 2018”, which document was declared a public record by Resolution No. 2019-1927 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, and Owner shall dedicate to the city such property as reasonably necessary for the Property to be developed in substantial conformance with the Bullard Avenue Corridor Design Treatment Strategies November 2018, including but not limited to the property needed for the corner corridor entry features;
13. Except as otherwise provided in a development agreement approved by the Goodyear City Council, Owner shall pay \$1,144,461.06 towards the cost of

the Van Buren Improvements prior to the recordation of the first final plat subdividing all or part of the Property or prior to the issuances of the first civil construction permit for any work related to the development of the Property, whichever is earlier;

14. Owner is responsible for a proportionate share of the costs for adjacent traffic signals. Owner shall either construct such signal(s) when warranted or pay to the city the proportionate share of the cost of such signal(s) (“in-lieu payment”) when requested by the City Engineer, or his/her designee. If Owner makes an in lieu payment, the payment shall be based on the actual cost of the traffic signal if it has been constructed or if the payment is required before the signal is constructed it shall be based on the estimated cost of the traffic signal as determined by the City Engineer or designee. Owner’s traffic signal obligation is as follows:
 - a. 25% of the cost of the full traffic signal (all four corners) at the intersection of Van Buren Street and Bullard Avenue;
15. Owner shall dedicate, in fee, an additional 32-feet of right-of-way along the Property frontage of Bullard Avenue and an additional 10-feet along the Property frontage of Van Buren Street to provide a total half street section of 65-feet prior to the issuance of the first civil construction permit;
16. Owner shall dedicate all necessary Public Utility Easements (PUE) along the Property frontage of Bullard Avenue and Van Buren Street prior to the issuance of the first civil construction permit;
17. Owner shall construct full half street improvements for a Major Arterial for the section of Bullard Avenue fronting the Property. Improvements include, but are not limited to, pavement, curb and gutter, sidewalks, street frontage landscape and landscape irrigation, and street lighting. Except as otherwise provided in a written phasing plan approved by the City Engineer or designee in his/her sole discretion, the Bullard Avenue Improvements shall be completed prior to issuance of the first certificate of occupancy within the Property; and
18. Owner shall construct those improvements required for a full half street for a Major Arterial for the section of Van Buren Street fronting the Property that have not been constructed. Improvements include, sidewalks, street frontage landscape, landscape irrigation, and street lights. Except as otherwise provided in a written phasing plan approved by the City Engineer or designee in his/her sole discretion, the Van Buren Street Improvements shall be completed prior to issuance of the first certificate of occupancy within the Property.

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. 18-11,” declared a public record by Resolution 2018-1927, 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 18-11,” 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. 2019-1422 is a true, correct and accurate copy of Ordinance No. 2019-1422, 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