

ORDINANCE NO. 2019-1423

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AMENDING THE SUN-DS FARMS, LLC FINAL PLANNED AREA DEVELOPMENT TO EXPAND THE MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL LAND USES, AND ELIMINATE THE COMMERCE CENTER LAND USES; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on June 9, 2008, the City Council conditionally approved the Final Planned Area Development (PAD) for Sun-DS Farms, LLC with the adoption of Ordinance No. 08-1116; and,

WHEREAS, on November 10, 2014, the City Council conditionally approved the amendment to the Final PAD for Sun-DS Farms, LLC with the adoption of Ordinance No. 14-1310; and,

WHEREAS, the overall Sun-DS Farms, LLC Final PAD consists of 160 acres, as generally shown and legally described on Exhibit B attached hereto; (the "Property"). The approved Sun-DS Farms, LLC Final PAD included 68 acres of low density residential, 39 acres of medium density residential, 47 acres of commerce center, and a six-acre park; and,

WHEREAS, the General Plan Land Use Plan shows the Property designated as 'Traditional Neighborhood' land use category and 'Business' on the southeast corner; and,

WHEREAS, the portion designated as 'Business' is less than 19 acres and does not require a General Plan Amendment;

WHEREAS, this request is to amend the Sun-DS Farms, LLC Final PAD by changing the land use designation of the 47 acres of commerce center to Medium Density Residential; and,

WHEREAS, this amendment replaces the Sun-DS Farms PAD Amendment book dated May 2008, with the Sun-DS Farms Regulatory Standards Book dated November 2018, which

WHEREAS, a rezoning request requires public review and approval by the Planning and Zoning Commission and the City Council. The proposed amendment is in conformance with the General Plan and should not adversely impact the surrounding area; and

WHEREAS, public notice that this rezone to the Sun-DS Farms, LLC PAD 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, 2019; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on January 9, 2019 to consider the rezone of the Property to the Sun-DS Farms, LLC PAD, and the Commission voted (~~X-X~~) to recommend/not recommend **approval** of the proposed rezoning; and

WHEREAS, public notice that this rezone of the Property to the Sun-DS Farms, LLC PAD, 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, 2019; 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 REZONED

This Ordinance No. 2019-1423 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located at the northwest corner of Estrella Parkway and Elwood Street as shown on that certain document titled “Supplementary Zoning Map No. 17-08A,” declared a public record by Resolution No. 2019-1928, 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 “Sun-DS Farms, LLC, Exhibit B – Legal Description,” declared a public record by Resolution No. 2019-1928, 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. PLANNED AREA DEVELOPMENT AMENDMENT

The Property is hereby conditionally rezoned from Final Planned Area Development (PAD) District to Final Planned Area Development (PAD) District by the adoption herein of that certain document titled, “Sun-DS Farms Final Pad Regulatory Standards Book, November 2018,” which document was declared a public record by Resolution No. 2019-1928, 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 development of the property is subject to the following stipulations:

1. Except as otherwise provided herein, all development within the Property shall be in compliance with the Sun-DS Farms Planned Area Development Regulatory Standards Book dated November 2018 (“Sun-DS Farms 2018 PAD”), which document was declared a public record by Resolution No. 2019-1928, three copies of which are on file

with the City Clerk of the city of Goodyear, Arizona and which is referred to, adopted, and made a part hereof as is fully set forth in this ordinance, and with all conditions and stipulations of approval;

2. Except as otherwise provided herein, the infrastructure improvements Owner is required to construct may be phased pursuant to the Final PAD Amendment Phasing Plan included in the Sun-DS Farms 2018 PAD (the “Sun-DS Farms Phasing Plan”)
3. The six acre community park that is to be developed within the Property shall be included in the first final plat recorded subdividing all or part of the Property; shall be developed in accordance with the requirements for Neighborhood Parks in the City of Goodyear Parks, Recreation, Trails and Open Space Master Plan in effect at the time the park is developed; and shall be completed prior to the issuance of the first Certificate of Occupancy for any single family dwelling unit (attached and/or detached) within Parcels A, B, and C, which parcels are depicted in the Sun-DS Farms Phasing Plan;
4. Except as otherwise provided herein, landscaping and other open space improvements located within a phase of development shall be fully completed upon issuance of the first Certificate of Occupancy for any single-family dwelling unit (attached and detached) within that phase;
5. Except as otherwise provided in this stipulation 5, Owner shall construct full half-street improvements within the Lower Buckeye Road from Estrella to the western boundary of the Property as a Minor Collector Road, which shall include but not limited to: paving consisting of a minimum 4-foot bike lane and two 12-foot travel lanes, curb and gutter, sidewalks, street frontage landscape and landscape irrigation, and street lighting. As an alternative, Owner shall construct full street improvements within Lower Buckeye Road from Estrella to 157th Avenue and construct a pedestrian path with an minimum of an eight (8) foot meandering sidewalk with landscaping on either side of the pedestrian path comparable to landscaping required for a Collector Street Median with low water consumptive plants from the ADWR’s approved list and decomposed granite in accordance with the Engineering Design Standards and Policies;
6. Except as otherwise provide herein, Owner shall construct full half-street improvements required for a Minor Arterial as set forth in the Engineering Design Standards in effect at the time of construction for the section of Elwood Street along the southern boundary of the Property. Improvements include, but are not limited to, pavement, curb and gutter, sidewalks, street frontage landscape and landscape irrigation, and street lighting. Improvements shall be completed pursuant to the Sun-DS Farms Phasing Plan and the improvements shall be completed prior to the issuance of any certificate of occupancy

within any parcel that triggers the obligation to construct such improvements as set forth in the Sun-DS Farms Phasing Plan. If the improvements to Elwood Street that Owner is required to construct in this stipulation 6 have been constructed by others, Owner shall remit to the City an in-lieu payment for the costs incurred in constructing such improvements. The in-lieu payment required in this stipulation 6 shall be made prior to the issuance of any construction or permit building for any development within Parcels D and E, which parcels are depicted in the Final PAD Amendment Phasing Plan included in the Sun-DS Farms 2018 PAD

7. Owner shall construct full half-street improvements required for a Scenic Arterial as set forth in the Engineering Design Standards in effect at the time of construction for the section of Estrella Parkway along the eastern boundary of the Property. Improvements include, but are not limited to, pavement, curb and gutter, sidewalks, street frontage landscape and landscape irrigation, and street lighting. Improvements shall be completed pursuant to the Sun-DS Farms Phasing Plan and the improvements shall be completed prior to the issuance of any certificate of occupancy within any parcel that triggers the obligation to construct such improvements as set forth in the Sun-DS Farms Phasing Plan.
8. The Owner shall dedicate all right-of-way and easements needed for on-site and off-site infrastructure that the Owner is required to construct, including, but not limited to: (a) the dedication of the north half-street right-of-way for Elwood Street, 65 feet from centerline, (b) the dedication of additional right-of-way needed for the construction of Lower Buckeye Parkway as a minor collector; (c) the dedication of any additional right of way needed for the construction of the half-street improvements for Estrella Parkway as a Scenic Arterial; (d) a public utility easement 10 feet in width on the north side of Elwood Street, (e) a public utility easement 10 feet in width on the west side of Estrella Parkway, and (f) a public utility easement (to the extent needed) eight feet in width on the south side of Lower Buckeye Road, in form and substance acceptable to the City Engineer, or his designee, prior to or concurrent with recordation of any final plat or approval of any site plan for a parcel adjacent to such right-of-way or easement area or within 30 days of such earlier time as is requested in writing by the City Engineer. Dedications of right-of-way shall be in fee all other required dedications shall be, in form and substance acceptable to the City. The dedications required herein shall be made at the earlier of the following: prior to or concurrent with recordation of any final plat or approval of any site plan for a parcel adjacent to such right-of-way or easement area or within 30 days of a written request by the City Engineer or designee requesting the dedication.

9. The Owner is responsible for the construction of or a payment 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 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 obligations are as follows:
 - a. 25% at Lower Buckeye Road and Estrella Parkway;
 - b. 50% at Pioneer Street and Estrella Parkway;
 - c. 25% at Elwood Street and Estrella Parkway;
 - d. 50% at Elwood Street and collector street.
10. Except as otherwise provided herein, Owner shall construct all infrastructure improvements required by the City of Goodyear subdivision regulations and Engineering Design Standards and Policy Manual in effect at the time of construction.
11. The developer shall provide for a waiver agreement, which shall run with the land, for each initial homebuyer to sign, and shall include the following statement in the waiver agreement: "Sun-DS Farms 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 owner does release and discharge the City of Goodyear, developer and homebuilder 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";
12. The Public Sales Report and final plat(s) shall include a statement that Sun-DS Farms 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;
13. The developer shall post signage within all subdivision sales offices identifying the location of the Luke Air Force Base Accident Potential Zones (APZs), 65 LDN and higher noise contours, and departure corridors, as well as the Phoenix-Goodyear Airport Traffic Pattern Area and noise contours per the Goodyear General Plan. This display shall include a 24-inch by 36-inch map at the main entrance of such sales facilities and shall include the approximate locations of the

homes being sold clearly depicted. The required contents of the map shall be provided by the City of Goodyear;

14. The following information shall be disclosed in the Public Sales Report and by note on the final plat, and shall be provided in a separate acknowledgment, which shall run with the land, for each initial homebuyer to sign: "Sun-DS Farms is in close proximity to agricultural uses and may therefore be subject to noise, dust, and odors associated with such uses";
15. The growing of crops on the subject property within 50 feet of any occupied residential dwelling is prohibited. Agricultural composting is prohibited anywhere on the Property;
16. The developer shall establish a homeowners association (HOA) for the residential parcels within Sun-DS Farms, with said HOA owning and maintaining all private open space areas, private trails, and other private community amenities within the residential parcels, and maintaining all arterial and collector road rights-of-way landscaping abutting or within the residential parcels except for arterial median landscaping. A note shall be placed on each final plat indicating HOA ownership and maintenance responsibilities of these private tracts and public rights-of-way landscaping;
17. If detached sidewalks are provided on local streets, the developer shall include a note on the final plat and require each homebuyer to sign an acknowledgment statement accepting maintenance responsibility for the landscaping between the sidewalk and curb in front of their home, and the side yard for homes on corner lots. The CC&R's for Sun-DS Farms shall state that the HOA will enforce maintenance if they are in non-compliance with this requirement;

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 2 of this Ordinance by the adoption of that certain document titled "Supplementary Zoning Map 17-08A," and legally described in that certain document titled, "Sun-DS Farms, LLC Exhibit B – Legal Description," both documents which were declared public records by Resolution 2019-1928, 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 an abridgment 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. 2019-1423 is a true, correct and accurate copy of Ordinance No. 2019-1423, 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