

## **ORDINANCE NO. 2019-1439**

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, REZONING APPROXIMATELY 22 ACRES OF LAND GENERALLY LOCATED AT THE NORTHWEST CORNER OF YUMA ROAD AND 173<sup>RD</sup> AVENUE, FROM THE PAD (PLANNED AREA DEVELOPMENT) ZONING DISTRICT TO THE PAD (PLANNED AREA DEVELOPMENT) ZONING DISTRICT, 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 22 acres generally located at the northwest corner of Yuma Road and 173<sup>rd</sup> Avenue, legally described in that certain document titled “Legal Description”, which document was declared a public record by Resolution No. 2019-1976, 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 ‘Neighborhoods’ on the General Plan Land Use and Transportation Plan, and this land use category encourages a mix of residential alnd uses; and

WHEREAS, the Property is currently zoned Canyon Trails Phase II PAD by Ordinance 99-676 and is designated for courthome development; and

WHEREAS, the Property Owner (the “Owner”) is seeking a rezoning of the Property to the Hillstone Residences at Canyon Trails PAD; and

WHEREAS, the Owner intends to develop a single family rental residential development in accordance with the requested Hillstone Residences at Canyon Trails Final PAD Development Standards; and

WHEREAS, the PAD states that development will be in conformance with the MF-18 zoning district unless modified by the PAD. The PAD includes modifications to city regulations pertaining to development standards, as identified in the PAD; 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 June 12, 2019, appeared in the Arizona Republic Southwest Valley edition on May 24, 2019; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on June 12, 2019, to consider the rezone of the Property; and

WHEREAS, the Commission voted 0 to 0 to recommend approval of the proposed rezoning with the revised stipulations; 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 June 24, 2019, appeared in the Arizona Republic Southwest Valley edition on May 24, 2019; 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. 2019-1439 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located at the northwest corner of Yuma Road and 173<sup>rd</sup> Avenue, as shown on that certain document titled “Supplementary Zoning Map No. 19-01A,” declared a public record by Resolution 2019-1976, 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 “Legal Description,” declared a public record by Resolution 2019-1976, 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 Planned Area Development (PAD) to the Planned Area Development (PAD) Zoning District by the adoption of that certain document titled “Hillstone Residences at Canyon Trails Final PAD Development Regulations, dated Feb. 1, 2019,” declared a public record by Resolution 2019-1976, 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 “Hillstone PAD”).

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 City of Goodyear Zoning Ordinance, the requirements for the MF-18 (Multi-Family)

district in the Goodyear Zoning Ordinance, and the City of Goodyear Design Guidelines except as modified by the Hillstone PAD, and except as modified by the following stipulations and conditions;

2. All structures on the Property shall be single story.
3. Owner shall submit an in-lieu payment to the City for one-half (1/2) the cost of the median improvements for a median within the section of West Yuma Road adjacent to the Property. The payment shall be based upon an engineering estimate of the construction costs of the full median approved by the City Engineer or his/her designee, and the payment shall be made prior to recordation of the first final plat subdividing all or part of the property, the approval of the first stite plan for development within the Property or when requested by the City Engineer or his/her desigee, whichever is earlier;
4. Unless already constructed, Owner shall construct the full traffic signal (i.e. all four arms of the traffic signal) at the intersection of W. Yuma Road and S. 173<sup>rd</sup> Avenue if warranted at the time of development. Otherwise, Owner shall, when requested by the City Engineer or his/her designee, submit an in-lieu payment to the city for one quarter (1/4) of the cost of full traffic signal improvements (i.e.all four arms of the traffic signal) at the intersection of W. Yuma Road and S. 173<sup>rd</sup> Avenue. 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;
5. Developer shall construct the full half-street improvements for the section of W. Yuma Road adjacent to the Property and shall construct or complete the half-street improvements for the section of within the section of S. 173<sup>rd</sup> Avenue adjacent to the Property, which improvemetns include, but are not limited to roadway, curb, sidewalk, signing & striping, underground utilities, landscaping and irrigation;
6. Coordination with RID shall be required for relocation or abandonment of their facilities within the boundaries of this development; and
7. Owner shall dedicate, at no cost to the City, an additional 42 feet of right-of-way, in fee, for the section of W. Yuma Road that is to be constructed adjacent to the Proeprty and a 10-foot PUE along the west half of S. 173<sup>rd</sup> Avenue adjacent to the Property. The dedications required herein shall be made concurrently with the recordation of any Final Plat, prior to the issuance of any permits,the recordation of a Minor Land Division (MLD), or when requested by the City Engineer, whichever is earlier.

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. 19-01A,” declared a public record by Resolution 2019-1976, 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 19-01A,” 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 provision 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.

