

ORDINANCE NO. 2019-1436

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, REZONING APPROXIMATELY 8 ACRES OF LAND LOCATED AT THE SOUTHEAST CORNER OF MCDOWELL ROAD AND 145TH AVENUE FROM GENERAL COMMERCIAL (C-2) TO MF-24, WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY “SPARROW PARTNERS – MF-24 WITH PAD OVERLAY”; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR NON-ABRIDGMENT, CORRECTIONS, AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PENALTIES.

WHEREAS, the Subject Property (or the “Property”) consists of approximately 8 acres and was zoned General Commercial (C-2) in 2000, by Ordinance No. 2000-710; and

WHEREAS, the General Plan Land Use Plan shows the Property designated as ‘Business & Commerce’. The ‘Business & Commerce’ land use category provides areas for the growth and development of Goodyear’s economic base including large areas for shopping and entertainment and includes uses such as high density residential that supports the area; and

WHEREAS, this request is to rezone the property to Multi-Family (MF-24) with a PAD Overlay in order to modify some of the development standards applicable to the MF-24 district, including maximum building height for main building and accessory structures, minimum rear and side yard setback, and minimum parking requirements; and

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, staff has determined that the proposed MF-24 rezone with a PAD Overlay request is in conformance with the General Plan and will not adversely impact the surrounding areas; and

WHEREAS, commercial and industrial land uses located adjacent to residential uses require additional setbacks and height limitations. Since this parcel is being rezoned from commercial to residential, these additional requirements will not be imposed on the adjacent properties; and

WHEREAS, the PAD regulations require that the additional setbacks, landscaping, and height requirements be provided on the subject property so the adjacent properties are not adversely impacted by this zoning change; and

WHEREAS, public notice that this rezone was to be considered and reviewed at a public hearings held before the Planning and Zoning Commission on June 12, 2019, and before the City Council on June 24, 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 the Commission voted X-X to recommend approval of the proposed rezoning; and

WHEREAS, 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. 2019-1436 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located on the south side of McDowell Road east of 145th Avenue, as legally described in that certain document titled “Sparrow Development Legal Description” and as shown on that certain document titled “Official Supplementary Zoning Map No.19-04,” both documents having been declared a public record by Resolution No. 2019-1973, three copies of both documents being on file with the City Clerk of the City of Goodyear, Arizona, and which documents are referred to made a part hereof as if fully set forth in this Ordinance (the “Property”).

SECTION 2. PLANNED AREA DEVELOPMENT

The Property is hereby conditionally rezoned from General Commercial (C-2), to the Multi-Family (MF-24) zoning district with a PAD Overlay, by adopting that certain document titled “Sparrow Partners – MF-24 with PAD Overlay Development Regulations dated February 14, 2019,” declared a public record by Resolution No. 2019-1973, 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 is fully set forth in this Ordinance.

SECTION 3. STIPULATIONS

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

1. Development of the Property shall be in conformance with requirements of the Goodyear Zoning Ordinance, the requirements for the MF-24 zoning district as modified by the “Sparrow Partners – MF-24 with PAD Overlay Development Regulations February 14, 2019” and as further modified by the following stipulations and conditions;
2. The PAD Overlay provides for reduced parking standards based on the representation that the Property will be developed as an age restricted community limited to residents 55 years or older whose parking needs are less than what would otherwise be required in the Goodyear Zoning Ordinance. The requirements for parking in the Goodyear Zoning Ordinance, currently

set forth in Article 6 of the Goodyear Zoning Ordinance shall apply to the development of the Property unless Owner demonstrates, to the satisfaction of the City Attorney or his designee, the existence of a non-revocable deed restriction that the Property will be an age restricted to residents 55 years or older.

3. Approval of the rezoning does not constitute approval of the site plan. All future development will be subject to site plan review and approval by city staff, at which time all elements of site development will be reviewed, including, but not limited to, architecture, landscaping, grading and drainage, lighting, infrastructure, parking, access and circulation;
4. The minimum number of residential units that shall be built is 175;
5. A pedestrian path shall be provided to the west and south to connect to future developments;
6. Owner shall construct a clubhouse that is at least 15,000 square feet and a pool along with additional amenities of the type described in the Sparrow Partners MF-24 with Planned Area Development (PAD) Overlay Narrative & Justification Statement , Initial Submittal: February 14, 2019 that Owner used to support the its request for the zoning.
7. The Owner shall acknowledge and disclose to any subsequent purchaser or tenant that the subject property is subject to attendant noise, vibrations, 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;
8. Buildings for residential occupancy shall be set back at least 50 feet from the north Property line and at least 50 feet from the east Property line;
9. Prior to the issuance of any certificate of occupancy within the rezoned property, Owner shall complete construction of required onsite and offsite infrastructure to serve the Property with water and sewer in accordance with approved City Master Plans and the Engineering Design Standards and Policies Manual. This includes, but is not limited to the construction of water and wastewater lines in the location identified in the City of Goodyear Integrated Water Master plan to extend water and wastewater lines to the Property;
10. The Owner shall acquire and dedicate, lien free and at no cost to the City, all necessary easements needed for on-site and off-site infrastructure, Owner is required to construct, including a 20' wide sewer easement for a wastewater line Owner is required to construct. Such dedications shall be, in form and substance acceptable to the City, and shall be made in conjunction with

approval of any final plat, minor land division, final plat, site plan, or when otherwise requested by the City Engineer, whichever is earlier;

11. The Owner shall dedicate in fee, lien free and at no cost to the City, the right-of-way for the half street for 145th Avenue, including the turnaround, and such dedication shall be made in conjunction with approval of any final plat, minor land division, site plan, or when otherwise requested by the City Engineer;
12. The Owner shall construct the full half street improvements for a Minor Collector for the section of 145th Avenue fronting the Property, which shall include, but are not limited to, landscaping, and landscape irrigation. Improvements shall be completed prior to issuance of the first certificate of occupancy;
13. All utilities within and adjacent to the subdivision, including cable television, shall be placed underground (with the exception of 69kV or larger electric lines), at no cost to the City;
14. The Developer shall apply to the Arizona Department of Water Resources (ADWR) for the extinguishment of the Type 1 rights appurtenant to the property and request that any assured water supply credits issued by ADWR as a result of any such extinguishment be credited to the City of Goodyear. Said extinguishment shall occur prior to City approval of any construction plans for development 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 "Official Supplementary Zoning Map No. 19-04," declared a public record by Resolution No. 2019-1973, 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 the "Official Supplementary Zoning Map 19-04," 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. 2019-1436 is a true, correct and accurate copy of Ordinance No. 2019-1436, 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