

ORDINANCE NO. 2019-1448

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY AMENDING THE PV303 PLANNED AREA DEVELOPMENT (PAD) TO APPLY THE PV303 PAD DEVELOPMENT PARAMETERS AND USES JUNE 2018 TO AN APPROXIMATELY 284-ACRE PORTION OF THE PV303 PAD, PHASE EAST III, GENERALLY LOCATED BETWEEN CAMELBACK ROAD AND CHARLES BOULEVARD; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR REPEAL OF CONFLICTING LAWS; PROVIDING FOR CORRECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PENALTIES.

WHEREAS, the development known as Palm Valley 303 consists of approximately 1,800 acres generally located south of Camelback Road, east and west of the Loop 303 (the “PV303 Property”); and

WHEREAS, the PV 303 Property is zoned PAD District (Planned Area District); the initial phase of Palm Valley 303 (then known as Phase 1) was zoned PAD with the adoption of Ordinance No. 2005-948 on June 27, 2005, and the remainder of the PV 303 Property (then known as Phases II, III, IV, V, and VI) was zoned PAD by the adoption of Ordinance No. 2007-1097; and

WHEREAS, the subject property consists of approximately 284 acres generally located between Camelback Road and Charles Boulevard, east of Pebblecreek Parkway, legally described in that certain document titled “Camelback Center – Legal Description,” which document was declared a public record by Resolution No. 2019-1991, 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”); and

WHEREAS, the Property is a portion of the PV 303 Property that was formerly known as Phase IV and is currently known as East III, and which is going to be developed as the Camelback Center; and

WHEREAS, the Property is zoned Planned Area Development (PAD) with an underlying land use designation of Light Industrial, and the development standards that currently apply to the Property are the standards adopted by Ordinance 2017-1346: the PV 303 Planned Area Development Plan dated February 2017, the PV 303 Master Design Guidelines and the Comprehensive Sign Package dated October 1, 2017, with the PAD referred to as the PV303 PAD; and

WHEREAS, although the PV 303 Property is all zoned PAD, it is subject to different development standards that resulted from various zoning amendments that amended various development standards applicable to specific portions of the PV 303 Property; and

WHEREAS, the Owner has asked that the Property be rezoned to apply certain updated development standards that have been applied to other portions of the PV303 Property; and

WHEREAS, a neighborhood meeting, in conformance with Section 1-3-8 (Citizen Review Process), of the city of Goodyear Zoning Ordinance, was held on July 30, 2019 to discuss the PAD amendment with surrounding property owners and stakeholders; and

WHEREAS, a request to amend a PAD requires public review and approval by the Planning and Zoning Commission and the City Council through the public hearing process. The PAD amendment must be in conformance with the General Plan and should not adversely impact the surrounding area as outlined in the Zoning Ordinance; and

WHEREAS, the Property is designated as “Business and Commerce” on the General Plan Land Use and Transportation Plan, which allows for commercial and light industrial uses such as office, warehousing and distribution, which is consistent with the PAD zoning for the Property; and

WHEREAS, staff has determined that the proposed PAD amendment 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 August 7, 2019 appeared in the Arizona Republic Southwest Valley edition on July 19, 2019; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on August 7, 2019, to consider this PAD amendment, and the Commission voted (7-0) to recommend approval of the PAD amendment, subject to the stipulations that have been presented; and

WHEREAS, public notice that this PAD amendment is to be considered and reviewed at a public hearing held before the City Council on August 19, 2019, appeared in the Arizona Republic Southwest Valley edition on July 19, 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. 2019-1448 applies to that parcel of land in Goodyear, Maricopa County, Arizona, generally located between Camelback Road and Charles Boulevard, east of Pebblecreek Parkway, as shown on “Official Supplementary Zoning Map No. 19-05A City of Goodyear, AZ – Rezone Case,” and as legally described in that certain document titled “Camelback Center – Legal Description,” both documents having been declared public records by Resolution No. 2019-1991, 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 REZONING

The Property is conditionally rezoned from Final PAD to Final PAD by the adoption of the PV303 PAD Development Parameters and Uses June 2018, which document was declared a public record by Resolution No. 2019-1991 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 as set forth herein and which shall govern the development of the Property.

SECTION 3. STIPULATIONS

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

1. The Property shall be developed in compliance with the land use designations and development parameters contained in the PV303 PAD Development Parameters and Uses June 2018 to the Property, which document was declared a public record by Resolution No. 2019-1991 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;
2. All development shall comply with the PV 303 Master Design Guidelines and Comprehensive Sign Program dated October 1, 2007;
3. The Owner shall dedicate all necessary street rights-of-way and utility easements to facilitate the development of the Property in form and substance acceptable to the City Engineer or designee, with the site plan or final subdivision plat, whichever comes first, or when requested by the City Engineer;
4. All utilities within and adjacent to the Property, including cable television, shall be placed underground, with the exception of 69 kV or larger electric lines, as each phase is developed, prior to the issuance of the first certificate of occupancy in such phase, and at no cost to the City;
5. Owner shall construct the half street improvements for Pebblecreek Parkway and Camelback Road fronting the rezoned 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 prior to issuance of the first certificate of occupancy;
6. The Owner shall be responsible for a proportionate share of the cost to install all traffic signals required to facilitate the development of the Property. Owner shall either construct the signals when warranted, or pay the

proportionate share of the cost to install the required signals to the city of Goodyear prior to the issuance of civil construction permits, whichever is earlier;

7. All final plats including any of the Property shall include a statement that PV303 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. The Owner/developer shall acknowledge and disclose to any subsequent purchaser or tenant that the 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. The owner/developer shall provide for a waiver agreement for any subsequent purchaser to sign which shall run with the land and which shall include the following statement: "The 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. The Purchaser does release and discharge the City of Goodyear, the owner, and developer from any liability from any 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 or over the area;"
9. Any final plat including any of the Property shall include a statement that PV303 is in proximity to the Arizona Motor Sports Park, generally located at Camelback Road and Reems Road, and may be subject to potential noise intrusion, vibrations, dust, and all other effects that may be associated with such uses;
10. The Owner/developer shall acknowledge and disclose to any subsequent purchaser or tenant that the Property is subject to attendant noise intrusion, vibrations, dust and all other effects that may be caused by the Arizona Motorsports Park, generally located at Camelback and Reems Roads. The Owner/developer shall provide for a waiver agreement for any subsequent purchaser to sign which shall run with the land and which shall include the following statement: "The Property is in proximity to Arizona Motor Sports Park, generally located at Camelback Road and Reems Road, and may be subject to potential noise intrusion, vibrations, dust, and all other effects that may be associated with such uses. The Owner does release and discharge the city of Goodyear and the developer from any liability from any claims for future damages and complaints of any kind to persons or property that may arise at any time in the future from the use such property by Arizona Motor Sports;"

11. A minimum 30-foot wide landscape buffer shall be provided and maintained between all commercial or industrial property and a residential lot;
12. All areas designated for commercial or industrial development shall have a minimum of 15% of the net site/lot area in landscaping;
13. Luke Air Force Base shall be given an opportunity to review and provide written comment on all building plans and land uses prior to the issuance of any building permit;
14. The Owner/developer of any building site shall file a Notice of Proposed Construction in compliance with Federal Regulation 49 CFR Part 77 if the proposed building, or any construction equipment to be used during its construction, will exceed the maximum height for which filing such notice is not required, and shall submit a copy of the filed notice to the city with the application for building permit;
15. Buildings on the Property (PV303 East III) that are within 300 feet of the north right-of-way line of Charles Boulevard or on lots abutting any residential lot in Palm Valley Phase V shall be limited to two stories and no buildings within 300 feet of the north right-of-way line of Charles Boulevard or on lots abutting any residential lot in Palm Valley Phase V shall exceed forty feet in height;
16. Land uses on the Property (PV303 East III) that are within 300 feet of the north right-of-way line of Charles Boulevard or on lots abutting any residential lot in Palm Valley Phase V shall be limited to business and professional offices, private business, professional and trade schools, scientific and research laboratories, and commercial trade schools and business colleges, or similar uses that are determined to be compatible by the Development Services Director or designee; and,
17. Buildings on the Property (PV303 East III) that are within 300 feet of the north right-of-way line of Charles Boulevard or on any lot abutting any residential lot in Palm Valley Phase V shall not have roll-up doors facing Charles Boulevard.

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. 19-05A City of Goodyear, AZ – Rezone Case," declared a public record by Resolution No. 2019-1991, 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. 19-05A 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. REPEAL OF CONFLICTING LAWS

All ordinances, resolutions, motions and parts of ordinances, resolutions and motions of the City of Goodyear in conflict with the provisions of this ordinance are hereby repealed effective as of the effective date of this ordinance.

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. 2019-1448 is a true, correct and accurate copy of Ordinance No. 2019-1448, 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