

ORDINANCE NO. 2020-1466

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 82 ACRES WITHIN RIVERSIDE PARK PRELIMINARY PLANNED AREA DEVELOPMENT (PAD) FROM PAD TO I-2 GENERAL INDUSTRIAL WITH A PAD OVERLAY; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR NON-ABRIDGMENT, CORRECTIONS, SEVERABILITY, AN EFFECTIVE DATE, AND PENALTIES.

WHEREAS, this ordinance applies to approximately 82 acres located west and southwest of the Maricopa County Highway 85 and Sarival Avenue and as more particularly described in that certain document entitled "Legal Description – Goodyear 82" declared a Public Record by Resolution No. 2020-2047, three copies of which are on file with the City Clerk and which is referred to and incorporated herein by this reference (the "Property"); and

WHEREAS, the Property is currently a part of the Riverside Park Preliminary Planned Area Development (PAD) which was adopted by Ordinance 05-976 with an underlying zoning of 2-Pack and 60-foot-wide single-family residential lots; and

WHEREAS, the Property is located just south of a Southern Pacific Railroad corridor; and

WHEREAS, the Property is located adjacent to the Maricopa County Highway 85 (MC-85) which lies along the northern boundary of the property; and

WHEREAS, the property is located adjacent to the future Arizona State Route 30 (Tres Rios Freeway); and

WHEREAS, the property will be located within two and one-half miles from the future four to five stack freeway interchange of the Arizona State Route 303 Loop (Bob Stump Memorial Parkway/Estrella Freeway) and the Arizona State Route 30 (Tres Rios Freeway); and

WHEREAS, on October 28, 2019, the Mayor and Council of the City of Goodyear adopted Resolution No. 2019-1999 approving a Major General Plan Amendment titled Lakin Park Area Major GPA (the "GPA Amendment"), which amended the General Land Use Designation for approximately 2,283 acres bounded by MC85 on the north and west, the Sarival Avenue alignment on the east and the Gila River on the South, including the Property; and

WHEREAS, the GPA Amendment was adopted because non-residential uses were more compatible with the planned transportation corridors cutting through the properties subject to the GPA Amendment; and

WHEREAS, following the adoption of Resolution No. 2019-1999, the General Plan designates the Property as being within a General Plan Land Use Designation of Industrial; and

WHEREAS, a rezoning of the property from Preliminary PAD with and underlying zoning of single-family to a I-2 (General Industrial) is consistent with the current General Plan; and

WHEREAS, the rezoning will permit the Property to be developed with General Industrial uses and will adhere to the principal permitted uses, permitted accessory uses, use permit uses, special uses and development regulations as established in the city of Goodyear Zoning Ordinance for the I-2, General Industrial zoning district; and

WHEREAS, the applicant desires to have buildings exceed the current maximum height of 50 feet and fall within a new maximum height of 70 feet; and

WHEREAS, the city has previously allowed buildings to exceed the maximum height of 50 feet and fall within a new maximum height above 70 feet in large industrial areas; and

WHEREAS, to ensure that the increased height will not impact properties developed for residential uses, the increased height will not apply to any portion of the Property within 500 feet of any property zoned for any residential use; and

WHEREAS, the proposed zoning is in conformance with the General Plan and should not adversely impact the surrounding area; and

WHEREAS, an alternative citizen review process was conducted for this proposal due to the city of Goodyear Emergency Declaration in Response to Coronavirus and notice of the application was provided to property owners within 500 feet of the property at least 35 calendar days prior to public hearing to provide ample opportunity for input prior to noticing the public hearing itself; and

WHEREAS, public notice that this rezoning request would be considered and reviewed at a public hearing to be held before the Planning and Zoning Commission on May 6, 2020 appeared in the Arizona Republic Southwest Valley Edition April 17, 2020; and

WHEREAS, postcards were mailed to adjoining owners on April 23, 2020 to advertise the May 6, 2020 Planning and Zoning Commission Meeting. This did not meet the 15-day notice as required by the City of Goodyear Zoning Ordinance and so the public hearing was continued to allow for proper notice of the item; and

WHEREAS, a public hearing was opened by the Planning and Zoning Commission during its meeting on May 6, 2020 and continued until the meeting on May 20, 2020; and

WHEREAS, postcards were mailed to adjoining owners on April 30, 2020 to advertise the May 20, 2020 Planning and Zoning Commission Meeting; and a sign was posted on the site on April 21, 2020 and modified on May 1, 2020 to reflect the May 20, 2020 Planning and Zoning meeting date; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on May 20, 2020 to consider the rezoning of the property to the I-2 (General Industrial) with stipulations and the Commission voted (TBD-TBD) to recommend approval/deny of the proposed rezoning; and

WHEREAS, public notice that this rezoning request would be considered and reviewed at a public hearing to be held before the Goodyear City Council on June 8, 2020 appeared in the Arizona Republic Southwest Valley Edition May 22, 2020

WHEREAS, postcards were mailed to adjoining owners on April 30, 2020 to advertise the June 8, 2020 Goodyear City Council Meeting; and a sign was posted on the site on April 21, 2020 and modified on May 1, 2020 to reflect the June 8, 2020 Goodyear City Council meeting date; 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 WITHIN REZONE

This Ordinance No. 2020-1466 applies to approximately 82 acres of land in Goodyear, Maricopa County, Arizona, generally located west and southwest of Sarival Avenue and Maricopa County Highway 85 as shown on the "Official Supplementary Zoning Map No. 19-02 City of Goodyear, AZ – Rezone Case" and as legally described in that certain document titled "Legal Description – Goodyear 82," both documents having been declared public records by Resolution No. 2020-2047 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 made a part hereof as if fully set forth in this Ordinance (the "Property").

SECTION 2 REZONING

The Property is conditionally rezoned from Preliminary Planned Area Development (PAD) to the I-2 General Industrial zoning district with a PAD overlay to increase the maximum building height from 50 feet to 70 feet for structures on the Property that are not 500-feet of any property zoned for any residential use.

SECTION 3. STIPULATIONS

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

1. No building permit shall be issued for a building that exceeds 50-feet in height that is within 500-feet of property that is zoned for a residential use.
2. A CLOMR shall be submitted to and approved by the City of Goodyear and FEMA before any civil construction drawings for the development of the Property are submitted to the city.

3. Approval from MCDOT for access off of MC-85 shall be required prior to receiving civil construction permits.
4. With the exception of electric lines that are 69kV or larger, all utilities within and adjacent to the Property, including but not limited to, cable and electrical utilities, shall be placed underground, at no cost to the City prior to the issuance of the first Certificate of Occupancy for any structure within the Property.
5. Owner shall comply with all applicable development regulations, including but not limited to the City of Goodyear Engineering Design Standards and Policies and the City of Goodyear subdivision regulations, in the development of the Property. This includes, but is not limited to: (i) the dedication, lien free and in fee, of the right of way needed for the half-street improvements for the streets along the perimeter of the Property, (ii) the construction, at no cost to the City, of the half-street improvements for streets along the perimeter of the property, which improvements shall include but are not limited to pavement, sidewalk, curb and gutter, landscape irrigation, street lights, traffic signals (as necessary), signing and striping; and (iii) an in-lieu payment for the costs of ½ the cost of a median and median landscaping within the sections of the streets Owner is required to construct, which payments shall be made prior to the issuance of the first first engineering permit for work within the Property.
6. Unless the City Engineer or his/her designee determines that it the street is not necessary, Owner shall dedicate to the City , lien free and in fee, the right of way needed for the half-street improvements for a street to be located along the western boundary of the Property approximately one-half (½) mile west of Sarival Avenue; (ii) the construction, at no cost to the City, of the half-street improvements for a street to be located along the western boundary of the Property approximately one-half (½) mile west of Sarival Avenue, which improvements shall include but are not limited to pavement, sidewalk, curb and gutter, landscape irrigation, street lights, signing and striping; and (iii) an in-lieu payment for the costs of ½ the cost of a median and median landscaping within the section of the street; Unless otherwise approved in a written phasing plan approved by the City Engineer or his/her designee, Owner shall complete the half-street improvements for the street to be located along the western boundary of the Property approximately one-half (½) mile west of Sarival Avenue prior to the issuance of a Certificate of Occupancy for any structure within the Property and shall remit the in-lieu payment for the costs of ½ the median and median landscaping for such street prior to the issuance of the first engineering permit for work within the Property.
7. 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. If the street along the western boundary of the Property approximately one-half (½) mile west of Sarival is required, Owner shall construct a the traffic signal located at the intersection of such street and MC-85 when warranted or, if an in-lieu payment is required, Owner shall be responsible for 50% of the costs of the traffic signal at that intersection
 - b. Owner shall construct all additional traffic signals identified as being needed in a Traffic Signal Needs Assessment included within an approved Traffic Impact Analysis or make in-lieu payments for a proportionate share of the costs of such traffic signals. The proportionate share of the cost of the traffic signal that the Owner shall be responsible for shall be 50% of the cost of the full traffic signal (all four corners) for each intersection corner that is adjacent to the Property.
8. The Owner shall dedicate all necessary street rights-of-way and utility easements to facilitate the development of the Property in a 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.
9. Prior to the issuance of any certificate of occupancy within the 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. 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.
11. Except as otherwise provided in a Development Agreement approved by the City of Goodyear City Council, Owner shall, at Owner's sole cost, provide the city with a physically and legally available water supply sufficient to provide the water service needed to serve the Property in excess of 1,500 gallons per acre per day that satisfies the Arizona Department of Water Resources' ("ADWR") standards for modifications of Designations of Assured Water Supply to increase the Designation water portfolio by an amount equivalent to the amount of the additional water needed to serve the Property and that provides for sufficient

extinguishment credits or renewable supplies to offset the additional water demands.

SECTION 4. AMENDMENT TO THE 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 the "Official Supplementary Zoning Map No. 19-02 City of Goodyear, AZ – Rezone Case" declared a public record by Resolution No. 2020-2047, 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 No. 19-02 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. ABRIDGEMENT 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, the 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: _____

Darcie McCracken, City Clerk

Roric Massey, City Attorney