

ORDINANCE NO. 2020-1467

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY AMENDING APPROXIMATELY 36 ACRES OF THE CENTERSCAPE AT PALM VALLEY AMENDMENT PLANNED AREA DEVELOPMENT (PAD) LOCATED SOUTHWEST OF NORTH 145TH AVENUE AND WEST MCDOWELL ROAD TO THE CENTERSCAPE AT PALM VALLEY 2020 PAD; PROVIDING FOR NON-ABRIDGMENT, CORRECTIONS; SEVERABILITY; AN EFFECTIVE DATE; AND PENALTIES.

WHEREAS, the approximately 36 acres (“Subject Property”) is located southwest of North 145th Avenue and West McDowell Road more particularly described in that certain document entitled “LEGAL DESCRIPTION” declared a Public Record by Resolution NO. 2020-2048, three copies of which are on file with the City Clerk and which is referred to and incorporated herein by this reference; and

WHEREAS, the Subject Property was part of the 51-acre the At-Home District Planned Area Development (PAD) which included a Mixed-Use Commercial District and was adopted by Ordinance No. 2006-996; and

WHEREAS, the Subject Property is currently a part of the approximately 39-acre Centerscape at Palm Valley Amendment PAD which includes a mix of office, retail, hotels, shops and restaurants and was adopted by Ordinance No. 2009-1193; and

WHEREAS, the Centerscape at Palm Valley 2020 PAD proposes 19.2 acres of General Commercial (C-2), 11.5 acres of Residential (MF-24), and 5 acres of flex zone that can be developed either as a contiguous extension of the portion of the Property that is to be C-2 and/or as a contiguous extension of the portion of the Property that is to be MF-24; and

WHEREAS, the General Plan designates this property as being within the Business and Commerce Land Use Designation of which general commercial and multi-family are acceptable uses; 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 Planned Area Development and the Commission voted (6-0) to recommend approval/deny of the proposed rezoning with an additional request to remove tobacco and smoke shops from the allowable C-2 General Commercial uses within the PAD; 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; and

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 AMENDMENT

This Ordinance No. 2020-1467 applies to approximately 36 acres of land in Goodyear, Maricopa County, Arizona, generally located southwest of North 145th Avenue and West McDowell Road as shown on the "Official Supplementary Zoning Map No. 19-08A" and described in that certain document titled "Centerscape Legal Description" both documents having been declared public records by Resolution No. 2020-2048, 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 Centerscape at Palm Valley Amendment Planned Area Development (PAD) to the Centerscape at Palm Valley 2020 Planned Area Development (PAD).

SECTION 3. STIPULATIONS

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

1. Owner shall design and construct the wastewater infrastructure improvements as required by applicable development regulations. Unless an alternative sewer report is submitted and approved by the City Engineer, Owner shall, unless such infrastructure has been designed and installed by others, design and construct a 12 inch wastewater line on the Property generally located at southern boundary of the Property connecting to an existing 12 inch wastewater line located on the adjacent Property generally located on the northeast corner of Bullard Avenue and Interstate 10 (the "Drury Property") up to the location of the force main (which shall be designed and constructed by others) as reflected in the Preliminary Sewer Design Summary of Centerscape, dated December 2019 (the "Approved Sewer Solution").
2. Unless an alternative water and sewer report that reflects a different solution than that reflected in the Preliminary Sewer Design Summary for Centerscape, dated December 2019 is approved by the City Engineer or his/her designee, the Owner shall dedicate to the City, lien free and at no cost to the City, a 20-foot wide Sewer Easement over the locations where the public 12 inch wastewater line and the wastewater force main as reflected in the Preliminary Sewer Design Summary of Centerscape, dated December 2019, which easement shall be in a form acceptable to the City Attorney or his designee and shall be for the purposes of constructing, inspecting, modifying, repairing, maintaining, removing and/or replacing wastewater facilities, access facilities and for providing access thereto ("Sewer Easement"). The Sewer Easement shall be dedicated to the City prior to the issuance of any construction permit for work on the Property or upon the request of the City Engineer or his/her designee if needed for others to construct the wastewater and access facilities, whichever is earlier.
3. Owner shall design and construct access facilities over the portions of the Sewer Easement where the twelve inch (12") wastewater line is to be constructed. The access facilities constructed over the Property shall consist of paved improvements, such as standard parking lot improvements, private drives, and utility crossings that meet the minimum standards the City requires for access facilities over a public sewer line. Owner shall be responsible for maintaining the access facilities on the Property upon their completion.
4. Any alternative sewer solution shall be designed in conformance with all applicable development regulations, including the requirements in the Engineering Design Standards and Policies manual, and shall include, at a minimum, the construction of a sewer line at least 12" in diameter infrastructure across the Property to provide sewer service for upstream

user, including specifically, the property immediately to the east, adjacent to and bordering 145th Avenue. If an alternative sewer solution is submitted and approved, Owner shall, at no cost to the City, construct all infrastructure improvements reflected in the approved alternative sewer solution and shall dedicate to the City, lien free and at no cost to the City, all easements needed for the infrastructure improvements to be located within the Property as reflected in the approved alternative sewer solution, which easement shall be in a form acceptable to the City Attorney or his designee and shall be for the purposes of constructing, inspecting, modifying, repairing, maintaining, removing and/or replacing wastewater facilities, access facilities and for providing access thereto. The easement(s) needed for the infrastructure improvements to be constructed pursuant to an approved alternative sewer solution shall be dedicated to the City prior to the issuance of any construction permit for work within the Property.

5. Owner shall be entitled to connect to the 12" sewer line installed pursuant to the Preliminary Sewer Design Summary of Centerscape, dated December 2019 or the approved alternative sewer solution consistent with the design requirements in the Engineering Design Standards and Policies Manual and will not be required to upsize the 12" sewer line unless the Property is rezoned and the rezone results in an increase in the water and wastewater assumptions for the new land uses.
6. The Owner shall dedicate in fee, lien free and at no cost to the City, all of the right-of-way needed for the street improvements Owner is required to construct as described in stipulations 5 and 6 below, including the right-of-way for the half street for 145th Avenue and the right-of-way for the cul-de-sac at the south end of 145th Avenue. Such dedications shall be made at the earlier of the following: in conjunction with approval of the first final plat, minor land division, and/or site plan, or when otherwise requested by the City Engineer.
7. 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, and (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. This includes the construction of the half-street improvements for N. 145th Ave., adjacent to the subject property. Improvements shall include but are not limited to curb, gutter, sidewalk, landscaping, landscape irrigation, street lights, and signing and striping. The improvements referred to herein shall be completed prior to issuance of the first certificate of occupancy within the Property.

8. The Owner shall construct a cul-de-sac shall at the southern most end of N. 145th Avenue. The cul-de-sac shall be constructed prior to obtaining the first Certificate of Occupancy for any structure within the Property;
9. 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.
10. The Developer shall apply to the Arizona Department of Water Resources (ADWR) for the extinguishment of the Irrigation Grandfathered 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 TO THE ZONING MAP

The Zoning Map of the City of Goodyear is hereby amended to reflect the rezoning set forth in Section 1 of this Ordinance by the adoption of Supplementary Zoning Map No. 19-08A, a copy of which is attached hereto as Exhibit A, 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. 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

