**ORDINANCE NO. 2020-1483**

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY REZONING APPROXIMATELY 12.2 ACRES OF PROPERTY LOCATED AT THE NORTHWEST CORNER OF SARIVAL AVENUE AND VAN BUREN STREET TO BE KNOWN AS CASCADE FALLS AT CANYON TRAILS; AMENDING THE ZONING MAP OF THE CITY OF GOODYEAR; PROVIDING FOR NON-ABRIDGEMENT; PROVIDING FOR CORRECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PENALTIES.

WHEREAS, this property subject to this Ordinance consists of approximately 12.2 acres and is located at the northwest corner of Sarival Avenue and Van Buren Street and is known as Cascade Falls at Canyon Trails as more particularly described in that certain document titled  Legal Description," which document was declared public record by Resolution No. 2020-2110, 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, on September 25, 1999, the City Council conditionally approved the Final Planned Area Development (PAD) for Canyon Trails Phase I with the adoption of Ordinance No. 1999-0649; and,

WHEREAS, the underlying land use is C-2 (General Commercial); and,

WHEREAS, the General Plan Land Use Plan shows the Property designated as 'Neighborhoods' with a Transit Oriented Development Overlay; and,

WHEREAS, this request intends to replace the commercial uses on this property with Multi-Family-24 subject to modified development standards; and,

WHEREAS, city staff finds that the proposed rezoning will not adversely impact the surrounding area as the proposed land uses will allow for the orderly growth and continued development of residential uses at this site; 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. To date, no objections or inquiries were received as a result of this notification

WHEREAS, public notice that this rezoning was to be considered and reviewed at a public hearing held before the Planning and Zoning Commission on November 4, 2020, appeared in the Arizona Republic Southwest Valley edition on October 16, 2020; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on November 4, and at that meeting the Commission voted TBD-TBD to recommend approval/denial of the proposed rezoning; and

WHEREAS, public notice that this rezoning was to be considered and reviewed at a public hearing held before the City Council on November 16, 2020, appeared in the Arizona Republic Southwest Valley edition on October 16, 2020; 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 interest, health, comfort, convenience, safety, and general welfare of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. DESCRIPTION OF PROPERTY BEING REZONED

This Ordinance No. 2020-1483 applies to approximately 12.2 acres located at the northwest corner of Sarival Avenue and Van Buren Street and legally described in that certain document titled "Legal Description," which document was declared public record by Resolution No. 2020-2110, 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. ADOPTION OF FINDINGS

The clauses set forth above are hereby adopted and incorporated herein by this reference as if fully set forth herein.

SECTION 3. REZONING

The Property is conditionally rezoned to MF-24 with a planned area development overlay by the adoption herein of that certain document titled "Cascade Falls at Canyon Trails MF-24 with PAD Overlay Development Regulations September 2020" which document was declared public record by Resolution No. 2020-2110, 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.

SECTION 4. STIPULATIONS

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

1. The Property shall be developed in accordance with the requirements of the City of Goodyear Zoning Ordinance as it may be amended from time to time applicable to the Multi-Family Residential Zoning District MF-24, except as modified by the Cascade Falls at Canyon Trails MF-24 with PAD Overlay Development Regulations September 2020, which document was declared public record by Resolution No. 2020-2103, three copies of which are on file with the City Clerk of the City of Goodyear, Arizona, and which is hereby referred to and made a part hereof as if fully set forth in this Ordinance and except as modified the stipulations set forth herein;

2. Owner shall construct and/or install all improvements required to complete the full west half-street improvements to Sarival Avenue, a Minor Arterial, along the frontage of the Property and all other improvements required in the Engineering Design Standards in effect at the time of construction and in any approved traffic impact analysis or study for the Property including, by way of example, decel lane(s), curb, gutter, sidewalks, street frontage landscape and landscape irrigation, and street lighting (the "Sarival Avenue Improvements"). Except as otherwise provided in a written development agreement approved by Council or a written phase plan approved by the City Engineer or his designee, the Sarival Avenue Improvements shall either be completed and accepted by the City Engineer or his designee subject to the two-year warranty period or shall be substantially completed as determined by the City Engineer or his designee and financial assurances provided to the City to ensure the completion of the Sarival Avenue Improvements prior to the issuance of the certificate of occupancy for any structure within any portion of the Property;

3. Owner shall construct and/or install all improvements required to complete the full north half-street improvements to Van Buren Street, a Major Arterial, along the frontage of the Property and all other improvements required in the Engineering Design Standards in effect at

the time of construction and in any approved traffic impact study or analysis for the Property including, by way of example, decel lane (s), bus bay(s) curb and gutter, sidewalks, street frontage landscape and landscape irrigation, and street lighting (the "Van Buren Street Improvements"). Except as otherwise provided in a written development agreement approved by Council or a written phase plan approved by the City Engineer or his designee, the Van Buren Street Improvements shall either be completed and accepted by the City Engineer or his designee subject to the two-year warranty period or shall be substantially completed as determined by the City Engineer or his designee and financial assurances provided to the City to ensure the completion of the Van Buren Street Improvements prior to the issuance of the certificate of occupancy for any structure within any portion of the Property;

4. Property Owner shall dedicate, at no cost to the City, all rights-of-way and/or easements within the boundaries of the Property that are: (i) needed for the construction of infrastructure improvements required for the City to provide water and wastewater services to the Property; (ii) required to be dedicated under any applicable law, code, ordinance, rule, regulations, standards, guidelines governing the development of the Property including, but not limited to the City of Goodyear subdivision regulations, Building Codes and Regulations, and the City of Goodyear's Engineering Design Standards and Policies; (iii) required for the construction of improvements for which Owner is responsible for making in-lieu payments; (iv) required to be dedicated pursuant to any development agreement with the City regarding the development of the Property; (v) required for the construction of the infrastructure improvements to be constructed pursuant to the stipulations herein, and/or (vi) required public infrastructure improvements Owner is required to construct pursuant to any applicable law, code, ordinance, rule, regulations, standards, guidelines governing the development of the Property including, but not limited to the City of Goodyear subdivision regulations, Building Codes and Regulations, and the City of Goodyear's Engineering Design Standards and Policies. The rights-of-way to be dedicated shall be dedicated in fee and all rights-of-ways and easements shall be dedicated lien free and, unless otherwise agreed to by the City, free of all other easements or other encumbrances. Unless the timing of the required dedications is modified by any stipulation in this ordinance, the terms of a written development agreement approved by the Council or a written phasing plan approved by the City Engineer or his designee, all dedications shall be made prior to or concurrent with recordation of a final plat that includes the area in which the dedicated property is located as required by the City Engineer or his designee;

5. The Owner is responsible for making an in-lieu payment of $125,000 towards the cots of the traffic signal at the intersection of Van Buren and Sarival adjacent to the Property and for making in-lieu payment(s) for a proportionate share of the cost of additional traffic signals adjacent to the Property identified in an approved Traffic Impact Analysis/Study as being needed. Except for the in-lieu payment for the traffic signal at the intersection of Van Buren and Sarival, the in-lieu payment for any additional traffic signals shall be in the amount of 25% of the cost of the full traffic signal at the intersection (i.e. all four legs of the signal) for each corner of the intersection that is adjacent to the Property, which shall be based on the actual cost of the traffic signal if it has been constructed or, if the payment is made before the traffic signal has been completed, upon an engineer's estimate of the probable cost of the signal approved by the City Engineer or his designee. The $125,000 in-lieu payment for the traffic signal at the intersection of Van Buren and Sarival shall be paid prior to the recordation of the first final plat subdividing all or part of the Property or the issuance of any permits for any work within the Property, whichever is earlier. Any other in-lieu payments for traffic signals required hereunder shall be made prior to the recordation of any final plat or the issuance of any construction permit for any work pursuant to an approved site plan that includes any portion of the Property adjacent to the intersection for which an in-lieu payment is required;

6. The Owner shall, when constructing the Sarival Avenue Improvements, construct a full median and install full median landscaping within the centerline median on Sarival Avenue consistent with the requirements set forth in the City's Engineering Design Standards and Policies Manual in effect at the time of construction;

7. In addition to the specific infrastructure identified in this Ordinance, Owner shall construct all infrastructure improvements required by the City of Goodyear subdivision regulations and Engineering Design Standards and Policy Manual in effect at the time of development of the Property;

8. Owner 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 recordation of the first final plat subdividing all or part of the Property or the issuance of any construction permits for work within the Property, whichever is earlier;

9. The Preliminary Water Report submitted with the application for the rezoning of the Property is not approved. At the time of Site Plan

submittal, Owner shall submit an updated Preliminary Water Report that complies with all applicable City of Goodyear requirements.

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. AMENDMENT TO ZONING MAP

The Zoning Map of the City of Goodyear is hereby amended to reflect the rezoning set forth in Section 3 of this Ordinance by the adoption of that certain document titled, "Supplementary Zoning Map No. 20-01," declared a public record by Resolution 2020-2081, 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 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 7. 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 8. 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 9. 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 10. PENALTIES

Any person who violates and 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 **amendment**s 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:

_____
Darcie McCracken, City Clerk

APPROVED AS TO FORM:

_____
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. 2020-1483 is a true, correct and accurate copy of Ordinance No. 2020-1483, 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