

ORDINANCE NO. 2019-20

AN ORDINANCE AMENDING THE FLAGSTAFF ZONING MAP TO REZONE APPROXIMATELY 14.51 ACRES OF REAL PROPERTY LOCATED AT 825 AND 829 E. BUTLER AVE. ON PARCEL NUMBERS 104-13-002B AND 104-03-005B FROM LIGHT INDUSTRIAL (LI) AND HEAVY INDUSTRIAL (HI) TO 2.24 ACRES OF HIGHWAY COMMERCIAL (HC) AND 12.27 ACRES OF HIGH DENSITY RESIDENTIAL (HR), WITH CONDITIONS; PROVIDING FOR SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, McGrath Real Estate Partners, LLC (“the Applicant”), has applied for a Direct to Ordinance Zoning Map Amendment of approximately 14.51 acres of real property located within the City of Flagstaff, a legal description of which is provided in “**Exhibit A**” attached hereto and incorporated by this reference (“the Property”), from Light Industrial (LI) and Heavy Industrial (HI), to High Density Residential (HR) and Highway Commercial (HC) for purposes of developing a multi-family residential and commercial project; and

WHEREAS, the Applicant proposes to develop the Property pursuant to the terms and conditions of this Ordinance and a Development Agreement between Applicant and the City (“Agreement”), which will be presented to the City Council through a proposed resolution at the second reading of this Ordinance; and

WHEREAS, the Applicant conducted neighborhood meetings on April 24, 2018, July 30, 2018, and May 16, 2019 to discuss the proposed Zoning Map Amendment with the surrounding community, as required by Section 10-20.50.040 of the Flagstaff Zoning Code; and

WHEREAS, the Planning and Zoning Commission has formally considered the proposed Direct to Ordinance Zoning Map Amendment application, following proper notice and hearings on January 9, 2019, May 22, 2019, and May 29, 2019, and with the result that the Planning and Zoning Commission has recommended approval of the requested Zoning Map Amendment application, subject to the Applicant’s compliance with the following five conditions:

1. The applicant shall submit an application for Site Plan Minor Modification for review and approval by the Inter-Division Staff prior to submittal of civil engineering or building permits. The subject property must be developed in accordance with the approved Site Plan modification and the related conditions of approval.
2. For the commercial portion of the development, final architectural design and site layout will be reviewed and approved with a separate Site Plan submittal and will be in conformance with the approved Development Agreement and Zoning Map Amendment conditions.
3. All other requirements of the Zoning Code and other City codes, ordinances, and regulations, shall be met by the proposed development.
4. All terms, conditions, and restrictions detailed within the “McGrath Development Agreement” must be fully satisfied.

5. In the event that Certificate of Occupancy has not been granted on the improvements on the commercial parcel within six years from the date of this Agreement, after notification by certified mail to the owner and applicant who requested the rezoning, the City shall schedule a public hearing before City Council to take action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former classification.

WHEREAS, staff have recommended approval of the Direct to Ordinance Zoning Map Amendment application, subject to the conditions proposed by the Planning and Zoning Commission, and the Council has considered each of the conditions and has found each condition to be appropriate for the Property and necessary for the proposed development; and

WHEREAS, the Council has read and considered the staff reports prepared by the current Planning Division staff and all attachments to those reports, the Applicant's application, the narrative provided by the Applicant, and all statements made by the Applicant and its representatives or agents during the presentation to Council, and the Council finds that the proposed Direct to Ordinance Zoning Map Amendment, subject to the conditions set forth below, meets the findings required by Section 10-20.50.040(F)(1)(a) of the Flagstaff Zoning Code;

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. The foregoing recitals are incorporated as if fully set forth herein.

SECTION 2. The amendment requested in the application is consistent with and conforms to the goals of the General Plan.

SECTION 3. The amendment requested in the application will not be detrimental to the public interest, health, safety, convenience, or welfare of the City, and will add to the public good as described in the General Plan.

SECTION 4. The affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access and public services and utilities to ensure that the amendment requested in the application will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

SECTION 5. The Zoning Map designation for the Property is hereby amended from Light Industrial (LI) and Heavy Industrial (HI) to Highway Commercial (HC) and High Density Residential (HR) as set forth in "**Exhibits A and B**", attached hereto and incorporated by reference.

SECTION 6. The City is specifically relying on all assertions made by the Applicant, or the applicant's representatives, whether authorized or not, made at the public hearing on the zone change application unless the assertions were withdrawn on the record. Those assertions are hereby incorporated into this ordinance.

SECTION 7. That the Zoning Map Amendment be conditioned on compliance with that Development Agreement between the City of Flagstaff and the Applicant, approved by the City Council in Resolution No. 2019-02 on July 2, 2019.

SECTION 8. That the Zoning Map Amendment be further conditioned upon the Applicant's satisfaction of the following conditions proposed by the Planning and Zoning Commission:

CONDITIONS:

1. The applicant shall submit an application for Site Plan Minor Modification for review and approval by the Inter-Division Staff prior to submittal of civil engineering or building permits. The subject property must be developed in accordance with the approved Site Plan modification and the related conditions of approval.
2. For the commercial portion of the development, final architectural design and site layout will be reviewed and approved with a separate Site Plan submittal and will be in conformance with the approved Development Agreement and Zoning Map Amendment conditions.
3. All other requirements of the Zoning Code and other City codes, ordinances, and regulations, shall be met by the proposed development.
4. All terms, conditions, and restrictions detailed within the "McGrath Development Agreement" must be fully satisfied.
5. In the event that Certificate of Occupancy has not been granted on the improvements on the commercial parcel within six years from the date of this Agreement, after notification by certified mail to the owner and applicant who requested the rezoning, the City shall schedule a public hearing before City Council to take action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former classification.

SECTION 9. That City staff is hereby authorized to take such other and further measures and actions as are necessary and appropriate to carry out the terms, provisions, and intents of this Ordinance.

SECTION 10. If any section, subsection, sentence, clause, phrase, or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 11. This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 2nd day of July, 2019.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY