

ORDINANCE NO. 2019-37

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ABANDONING APPROXIMATELY .37 ACRES OF CITY RIGHT-OF-WAY LOCATED ON WEST UNIVERSITY DRIVE SUBJECT TO RESERVATIONS AND CONDITIONS; PROVIDING FOR DELEGATION OF AUTHORITY AND SEVERABILITY; RECORDATION; REPEAL OF CONFLICTING ORDINANCES; AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, on April 17th, 2018 the City Council of the City of Flagstaff passed and adopted Resolution No. 2018-13, authorizing the execution of the Mill Town Development Agreement (DA) between the City of Flagstaff and Vintage Partners in order to facilitate development of the Mill Town Property and related transportation improvements; and

WHEREAS, on August 28th, 2018 the City Council of the City of Flagstaff passed and adopted Resolution No. 2018-42 approving the Intergovernmental Agreement between the City of Flagstaff and the Arizona Department of Transportation related to the P3/Mill Town project for transportation improvements to Beulah Boulevard and University Drive; and

WHEREAS, in Section 7.2.2 of the DA, the City acknowledges and agrees that the realignment of University Drive will cause a portion of the prior alignment to become remnant right-of-way (the "University Property"); and

WHEREAS, concurrently with the recordation of the Final Plat, the City agrees to take all action necessary to transfer the University Property to Vintage in exchange for the Roadway ROW, which process is provided for and permitted under A.R.S §28-7203; and

WHEREAS, the City has authority to abandon public rights-of-way pursuant to A.R.S § 28-7201 et seq, and pursuant to the City Code, Title 11, *General Plans and Subdivisions*, Division 11-20-160, *Abandonment or Vacation of Public Right-of-Way*; and has authority to dispose of real property pursuant to the Flagstaff City Charter, Article VIII, Section 10; and

WHEREAS, City divisions and agencies have had the opportunity to review a map of the public right-of-way proposed to be abandoned; and

WHEREAS, the City Engineer in consultation with the Water Services (formerly Utility) Director and Public Works Director have determined that the proposed abandonments are consistent with the General Plan, Zoning Code, any applicable Specific Plan, and all applicable Division standards, as referenced in the staff report on file with the City Clerk.

ENACTMENTS:

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

SECTION 1. In General.

The University Property legally described in Exhibit C and depicted in Exhibit C-1 is abandoned as a public right-of-way. The City of Flagstaff hereby authorizes title to the University Property to transfer by Quit Claim Deed to the abutting property owner, Vintage Partners LLC, an Arizona limited liability company, subject to the reservations set forth in the Quit Claim Deed attached hereto as Exhibit A and incorporated by reference and such rights and interests, if any, as are required to be reserved by A.R.S. Sec. 28-7210 and A.R.S. Sec. 28-7215.

SECTION 2: Delegation of Authority.

That the City Manager, the City Attorney, the City Clerk, the Finance Director, the Real Estate Manager, the City Engineer, or their designees or agents, are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Ordinance.

SECTION 3. Recordation.

The City Clerk is hereby directed to cause this Ordinance to be recorded in the Office of the Coconino County Recorder, within 10 days following the date that this Ordinance is effective. The abandonment described in this Ordinance will become effective when the Ordinance is recorded.

SECTION 4. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 5. Severability

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 6. Effective Date

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 17th day of December, 2019.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

EXHIBITS:

Exhibit A

Exhibit C