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May 15, 2019

BY HAND DELIVERY

Daniel Symer
 Zoning Code Manager
 City of Flagstaff
 211 West Aspen Avenue
 Flagstaff, AZ 86001

Re: Proposed Text Amendment to the City of Flagstaff Zoning Code, Section 10-40.30.050.B (Industrial Zones) to Authorize “Seasonal Amusement/Entertainment and Sales, Indoor” Uses, Subject to Approval of a Conditional Use Permit

Dear Dan:

On behalf of The North Pole Experience, we are pleased to submit this application for amendment to the City of Flagstaff Zoning Code (“Code”) to modify the LI, Light Industrial zone to permit “Seasonal Amusement/Entertainment and Sales, Indoor” uses, subject to approval of a Conditional Use Permit.

This request is to add a new “Other” land use to the table of uses provided for in Section 10-40.30.050.B, Industrial Zones – Allowed Uses to add “Seasonal Amusement/Entertainment and Sales, Indoor” which will allow specifically defined temporary seasonal uses, inclusive of The North Pole Experience, to request the consideration of a Conditional Use Permit (“CUP”) by the Planning and Zoning Commission. More specifically, this is a request to modify the table as shown below:

Table 10-40.30.050.B. Industrial Zones – Allowed Uses						
Land Use ¹	Specific Use Regulations	Industrial Zones				
		RD	LI	LI-O	HI	HI-O
Other						
Seasonal Amusement/Entertainment and Sales, indoor	10-40.60.XXX	--	UP	--	--	--

As you are aware, currently such uses are not permitted in the LI zoning district. In addition, we are proposing to modify the Code (i) to define “Seasonal Amusement/Entertainment and Sales, Indoor” and (ii) to establish specific use standards (beyond those applicable to a CUP application), described below in Section A and B of this letter, to be added to Section 10-40.60.XXX to ensure compatibility between uses. No other changes are requested with this application.

A. Establishment of a New Definition for “Seasonal Amusement/Entertainment and Sales, Indoor”. As a new use category, a clarifying definition is required. We proposed adding to the Code, in Section 10-80.20.190, the following definition:

“Seasonal Amusement, Entertainment and Sales, Indoor: is an indoor annual reoccurring seasonal commercial amusement, entertainment or festival event (e.g. art festivals/performances/workshops, Christmas fair, haunted house, or similar activity approved by the Zoning Administrator), including the season sales of merchandise, that occurs only once in a calendar year for a specified timeframe, which is generally less than 4 months.”

The North Pole Experience would fit the proposed “Seasonal Amusement/Entertainment and Sales, Indoor” definition as it is: (i) indoors; (ii) provides a reoccurring seasonal “amusement” and “entertainment” type of event (a “tour” of the North Pole, working with Santa, Mrs. Santa, “elves”, etc.); (iii) includes some accessory merchandise sales and (iv) occurs annually for less than four (4) months.

B. New Criteria (Beyond the Standard CUP Criteria in Section 12-20.40.050.E) for “Seasonal Amusement/Entertainment and Sales, Indoor”. This amendment would add “Seasonal Amusement/Entertainment and Sales, Indoor” subject to a CUP in the LI zone. Because such uses can be in conflict with other LI zone uses, it is appropriate to establish use specific criteria for proposed “seasonal” facilities in these situations to ensure compatibility between and amongst all users.

As the applicant, our client is open to discussing the conceptual language below. The following is an initial suggestion of criteria for inclusion into Section 10-40.60.XXX for these specific uses. The proposed text is intended to minimize the impact of a customer-oriented use in the LI zone, particularly related to: (i) parking/circulation; and (ii) use compatibility.

New Section 10-40.60.XXX: Seasonal Amusement, Entertainment and Sales, Indoor.

A. Applicability. The following apply to all Seasonal Amusement, Entertainment and Sales, Indoor, in the Light Industrial (LI) Zone.

B. Access. To avoid conflict between passenger vehicles, large trucks and pedestrians, (public) access to the building area of the use, or any portion thereof, by employees,

licensees and invitees of the use shall not be located on the same façade or side of the building that has loading bays, service areas or truck yard facilities.

C. Parking.

1. **Minimum Number.** The minimum of number of parking spaces required is 1 space per 4 persons based on maximum person capacity of the tenant area, or the number specified in a parking demand study approved by the Planning Director.
2. **Minimum Customer Parking.** A minimum of 60 percent of the required parking, or the number specified in the parking demand study approved by the Planning Director, shall be provided as customer parking.
 - a. **Customer parking for the use shall be:**
 - (1) clustered together, and located nearest to the uses primary public entry/exit;
 - (2) shall not be located on side of the building that has loading bays, service areas or truck yard facilities; and
 - (3) signed and exclusively reserved for uses customers during use's event hours of operation.
 - b. The property owner shall submit and obtain approval from the Planning Director of a pedestrian circulation, signage and traffic control plan. The plan shall identify the pedestrian route from the customer parking to the primary public entry and exit. Also, the plan shall include signage and marking in accordance with the following:
 - (1) When a pedestrian route from the customer parking to the primary public entry and exit crossing primary drive aisle that serve the remainder of the development, the pedestrian route shall include signage and markings to notify the pedestrian of potential vehicle traffic and hazards. In addition, a pedestrian route across a drive aisle, at a minimum shall be signed and marked in accordance with the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD) for crosswalks. Additional signage and markings shall be provided to visually communication to vehicle traffic that pedestrians may be present.

D. Temporary Nature. A Seasonal Amusement/Entertainment and Sales, Indoor use event, including public or private event functions, shall limited a total of 98 days in any one calendar year, and no more than 98 consecutive days. The said timeframes do not include setup, training, breakdown and closing activities before and after the event.

E. Compatibility with Existing Uses: In addition to the criteria of Section 10-20.40.050.E. in order to approve a Conditional Use Permit for the Seasonal Amusement, Entertainment and Sales, Indoor use, the Planning and Zoning Commission shall find:

1. There are no anticipated health, safety, or welfare operational conflicts between the propose use or existing uses on the property, or the existing use on the adjacent properties; and

2. There are no anticipated health, safety, welfare or undue risk to the use's customers arising from the proximity to the existing use on the property and on adjacent properties.

With the above additional criteria, proposed "Seasonal Amusement/Entertainment and Sales, Indoor" permitted uses will be evaluated on a site-specific basis for placement on-site to: (i) avoid conflicts with loading and service areas; (ii) ensure that parking is both convenient; (iii) to ensure that the permitted use is safely located; and (iv) to confirm compatibility with other LI uses.

C. Regional Plan. The following provides an analysis of the Regional Plan's goals and policies as they relate to this requested text amendment for consideration by staff, Planning Commissioner's and City Council members as they evaluate this proposed modification to the Code. In review of the Regional Plan, the following Goals and Policies provide support for this proposal, particularly those related to Land Use and Economic Development, as discussed below.

Chapter IX – Growth Areas & Land Use – Reinvestment Goals and Policies

Goal LU.1. Invest in existing neighborhoods and activity centers for the purpose of developing complete, and connected places.

Policy LU.1.1. Plan for and support reinvestment within the existing city centers and neighborhoods for increased employment and quality of life.

Policy LU.1.3. Promote reinvestment at the neighborhood scale to include infill of vacant parcels, redevelopment of underutilized properties, aesthetic improvements to public spaces, remodeling of existing buildings and streetscapes, maintaining selected appropriate open space, and programs for the benefit and improvement of the local residents.

Policy LU.1.6. Establish greater flexibility in development standards and processes to assist developers in overcoming challenges posed by redevelopment and infill sites.

Existing areas will benefit from reinvestment by allowing, on a case-by-case basis, new land uses that could complement existing LI land uses and that would allow land owners to find uses for underutilized or challenged properties. By expanding possible land uses in the zone, existing underutilized properties that are not viable for a change in zoning may attract investment and/or remodeling. Furthermore, this application would provide "greater flexibility" that would assist developers in addressing redevelopment/infill challenges by adding another set of land use options for LI zoned properties. Adding the option to consider "Seasonal Amusement/Entertainment and Sales, Indoor" uses on a case-by-case basis provides a way to encourage property owner investment in existing areas and to promote reinvestment consistent with this Goal and Policy recommendation.

Goal LU.6. Provide for a mix of land uses.

Policy LU.6.4. Provide appropriate recreational and cultural amenities to meet the needs of residents

If approved, this amendment will provide an opportunity to broaden the mix of land uses allowed in the LI zone with seasonal event types of public amenities. There are locations where the addition of an “Seasonal Amusement/Entertainment and Sales, Indoor” use would broaden the mix of land uses while creating opportunities to add seasonal amusement/entertainment type amenities to the community at locations appropriate for such uses, as intended by this Goal and Policy.

Chapter XIV – Economic Development – Business Attraction Goals and Policies

Goal ED.3. Regional economic development partners support the start-up, retention, and expansion of existing business enterprises.

Policy ED.3.8. Protect existing business and industrial land uses from encroachment and allow for their expansion.

While this request does support the goal of “support” for “start-up, retention, and expansion of existing business enterprises” (specific to The North Pole Experience), there is a conflict with the underlying policy, which seeks to protect business and industrial land uses from other uses that may limit their expansion options (or be an incompatible land use). Usually, adding a new type of land use can encourage property owners and/or developers to focus leasing effort or new construction efforts on such uses. However, this proposed text amendment mitigates this concern by requiring a case-by-case review (the CUP approval process) as well as by limiting the use to seasonal (3 month periods) that would most likely result in the adaptive reuse of existing, underutilized space and not compel construction of new buildings dedicated to “Seasonal Amusement/Entertainment and Sales, Indoor” types of uses.

Goal ED.4. Support efforts to recruit diverse new businesses and industries compatible with the region.

Policy ED.4.2. Promote variety and flexibility in land use and development options within the urban growth boundary.

This requested amendment provides an opportunity for consideration of specific land use types in the LI zoning district that may be new types of businesses that are local and/or regional customer draws. The amendment will also promote “variety and flexibility in land use” in the LI zone, properties have more development/use potential which is useful in business attraction and retention as encouraged by the above Goal and Policy.

Chapter XIV – Economic Development – Tourism Goals and Policies

Goal ED.6. Tourism will continue to provide a year-round revenue source for the community, while expanding specialized tourist resources and activities.

Policy ED.6.1 Support and promote the diversification and specialization of the tourism sector, with heritage, eco-, and adventure tourism.

This request will “support and promote” tourism by providing opportunity for the relocation and/or retention of tourist attractions in the City of Flagstaff. There are all sorts of tourist concepts that fit a “Seasonal Amusement/Entertainment and Sales, Indoor” definition that may desire to locate to the Flagstaff area; this amendment will allow for consideration of LI zoned sites for those concepts as appropriate, which is encouraged by these Goals and Policies.

Chapter XIV – Economic Development – Redevelopment and Infill Goals and Policies

Goal ED.9. Promote redevelopment and infill as a well-established means to accomplish a variety of community economic, planning, and environmental goals.

By adding the option for consideration (on a case-by-case basis) “Seasonal Amusement/Entertainment and Sales, Indoor” in the LI zone, an option for other land uses is available for LI zoned properties. For those properties that are challenged with finding tenants, this text amendment provides an opportunity to reactivate and/or redevelop existing developments as supported by this Goal.

Employment Area Types

The “Light-Medium Industrial” area type (typically the location of LI zoned properties) is intended for a wide variety of light industrial uses, including “manufacturing, warehousing and distributing.” The proposed text amendment supports the vision of these types of areas as it is similar to “warehousing” functions and does not include uses that are of a “Heavy Industrial” type (such as those that generate liquid or solid wastes, emissions or use significant inputs into final projects). The proposed uses are complementary to other LI uses.

In summary, this requested amendment is supported by a number of Goals and Policies of the Regional Plan.

C. Findings for Text Amendments. The Code requires that the following three (3) findings be made (Section 10-20.50.040.F.1.b) when approving a proposed text amendment.

Finding 1: The proposed amendment is consistent with and conforms to the objectives and policies of the General Plan and any applicable specific plan;

As discussed in detail above, the proposed text amendment is consistent with and conforms to the Regional (General) Plan. Specifically, it advances a number of the Regional Plan's Goals and Policies related to Growth and Land Use, Transportation and Economic Development. The addition of "Seasonal Amusement/Entertainment and Sales, Indoor" land uses, subject to a Conditional Use Permit review, will allow for LI zoned properties to be considered for use or development with those uses, so long as they meet the required criteria and are deemed appropriate for the site by the Planning Commission (or City Council if appealed).

Finding 2: The proposed amendment will not be detrimental to the public interest, health, safety, convenience or welfare of the City; and

The proposed amendment will introduce more customer traffic to LI zoned properties, which may contain incompatible uses. To ensure that "Seasonal Amusement/Entertainment and Sales, Indoor" are located in the appropriate sites, and are safely located on a site and provide safe ingress/egress, additional criteria have been proposed to assist with the review and consideration of such factors. Because of this extra layer of review, there will not be any detrimental impacts to public health, safety or welfare from this amendment.

Finding 3: The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.

This proposed amendment creates the ability to file for a Conditional Use Permit in the LI zoning district, an option that only exists today in the lesser LI-O zoning district. The amendment will modify the land use table as noted above. It will also introduce standards associated with "Seasonal Amusement/Entertainment and Sales, Indoor" uses when proposed for sites that are zoned LI. The proposal is consistent with the current intent of the LI zone, and adds provisions to Section 10-40.60 specific to these uses in the LI zone, which are consistent with other specific uses and use patterns regulated by the Code.

D. Summary. This is a request to add "Seasonal Amusement/Entertainment and Sales, Indoor" to the LI zone, subject to a Conditional Use Permit approval. This application also proposes to establish development and review standards for "Seasonal Amusement/Entertainment and Sales, Indoor" uses to ensure public safety and compatibility with neighboring business.

Approval of this requested amendment will allow such uses to consider LI zoned sites, expanding options. In this case, the applicant, The North Pole Experience, will be able to relocate to a larger space within the municipal boundaries of the City of Flagstaff, which will: (i) permit expanded growth from the current 70,000 annual visitors to an anticipated 100,000; (ii) retain over 280 seasonal jobs (focused primarily on high-school and college age employees) in the City of Flagstaff; (iii) retain approximately \$500,000 in seasonal payroll (over a 6 week period); as well as (iv) capture new sales taxes from increased ticket and merchandise sales (estimated at \$300,000).

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We look forward to discussing this requested text amendment at the forthcoming Planning Commission and City Council meetings.

Respectfully submitted,

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