

ORDINANCE NO. 2020-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF ZONING MAP TO REZONE APPROXIMATELY 13.65 ACRES OF REAL PROPERTY LOCATED AT 1002 NORTH FOURTH STREET ON PARCEL NUMBER 106-08-005J FROM MEDIUM DENSITY RESIDENTIAL ("MR") TO HIGHWAY COMMERCIAL (HC"), WITH CONDITIONS, AND ESTABLISHING AN EFFECTIVE DATE.

RECITALS:

WHEREAS, Flagstaff at 4th, LLC ("the Applicant"), has applied for a Direct to Ordinance Zoning Map Amendment to rezone approximately 13.65 acres of real property located at 1002 North Fourth Street on Parcel Number 106-08-005J 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 Medium Density Residential (MR) to Highway Commercial (HC) for purposes of developing a horizontal mixed-use commercial retail and multi-family residential project; and

WHEREAS, the applicant proposes to develop the Property pursuant to the terms and conditions of this Ordinance and a Development Agreement between the 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 two (2) neighborhood meetings, the first on October 29, 2019 and the second on December 19, 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 present Zoning Map Amendment application following proper notice and one (1) public hearing, in accordance with the City of Flagstaff Zoning Code section 10-20.50.040.H.1, on July 08, 2020 and has recommended approval of the requested Zoning Map Amendment, subject to the Applicant's compliance with certain conditions set forth below; and

WHEREAS, the Council finds that the Applicant has complied with all application requirements set forth in Chapter 10-20 of the Flagstaff Zoning Code; and

WHEREAS, the staff have recommended approval of the Direct to Ordinance Zoning Map Amendment, subject to the conditions proposed by staff, as set forth below, and the Council has considered the conditions and has found them 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 Planning Division 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 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 Zoning Map Amendment requested in the application is consistent with and conforms to the goals of the General Plan.

SECTION 3. The Zoning Map 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 Medium Density Residential (MR) zone to the Highway Commercial (HC) zone, as depicted in Exhibit "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 or agents, 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. 2020-50.

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

1. The subject property must be developed in accordance with the approved Site Plan and the conditions of approval dated December 23, 2019. Modifications (other than minor modifications) to the approved site plan will require an amendment to this Direct to Ordinance Zoning Map Amendment request.
2. All other requirements of the Zoning Code and other City codes, ordinances and regulations, shall be met by the proposed development.
3. All terms, conditions, and restrictions detailed within the "Development Agreement Flagstaff at 4th, LLC, LLC" must be fully satisfied.
4. The Developer's failure to obtain certificate of occupancy for the entirety of the Project within five (5) years of the effective date of the rezoning ordinance shall entitle the City, in its sole discretion, to conduct a public hearing for the purpose of reverting the Highway Commercial (HC) zoning on the Property to its former zoning classification of Medium Density Residential (MR), in accordance with Arizona Revised Statutes § 9-462.01.
5. The project shall meet the steep slope protection standards indicated in Zoning Code table 10-50.90.050A.

6. The project shall meet horizontal mixed-use requirements. A horizontal mixed-use development requires more than residential occupancy under the City's Zoning Code. By definition, a horizontal mixed-use development shall include two or more different types of uses placed next to each other on the same parcel, planned as a unit, and connected together with pedestrian and vehicular access.

SECTION 9. 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. This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 1st day of September, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Attachments:

Exhibit A – Legal Description of Property
Exhibit B – Amended Partial Zoning Map