

# Northgate Holdings Prop 207 Claim

Binding Waiver of Enforcement

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# Background

## Ordinance 2017-31

- On December 19, 2017, the Flagstaff City Council adopted Ordinance 2017-31, which made various amendments to the Flagstaff Zoning Code.
- The amendments made certain changes applicable to the Transect Zoning, including:
  - Removal of Commercial Block building form from T4N.1.
  - Addition of max lot width and depth for Commercial Block form.
  - Addition of Façade Plan requirements for Commercial Block form.
  - Changes to pedestrian and vehicle access requirements.



# Background

## Northgate's Claim

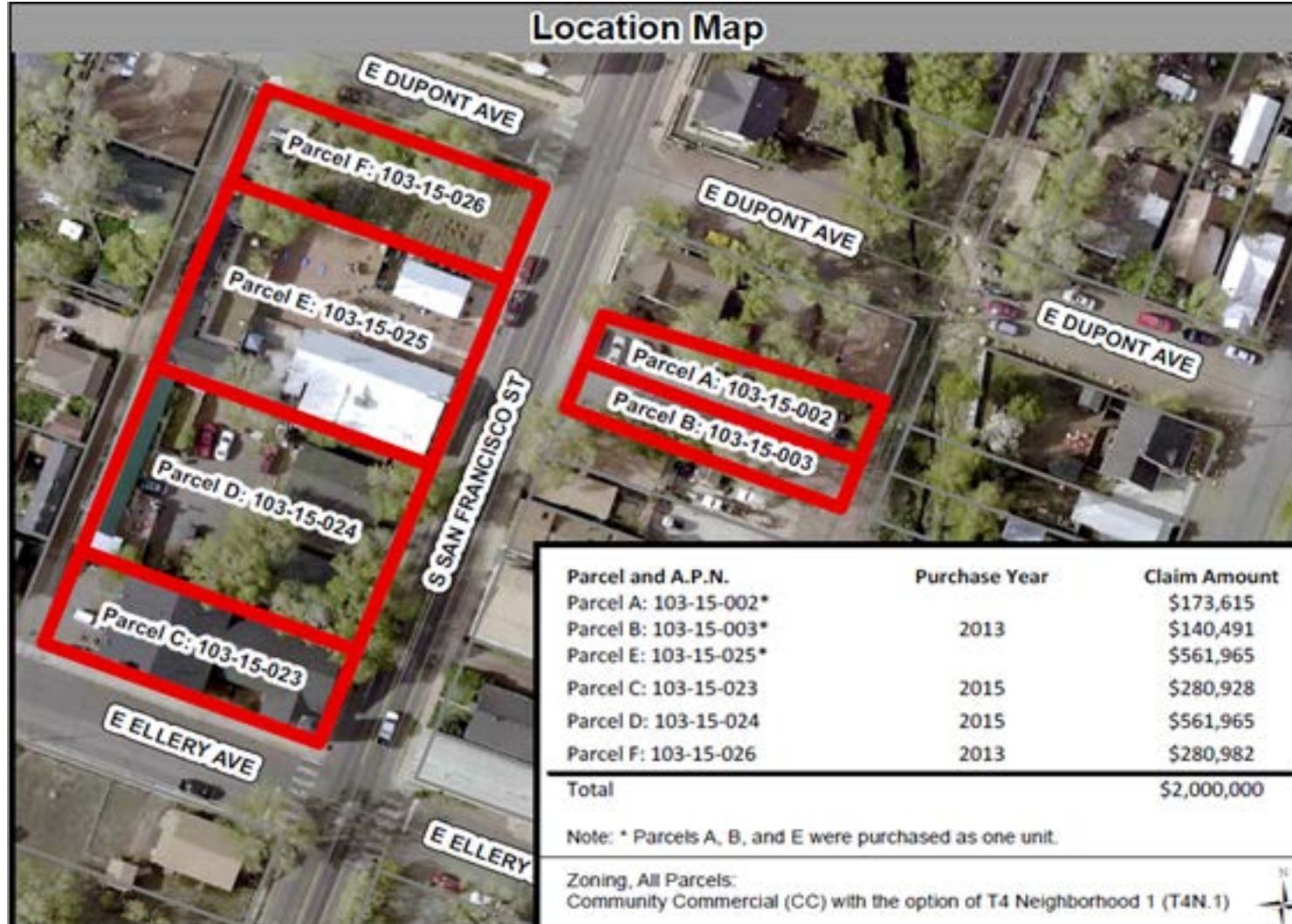
- On December 2, 2019, Northgate Holdings filed a Prop 207 claim with the City regarding six parcels of land on S. San Francisco Street in the Southside neighborhood.
- These six parcels are zoned Community Commercial with the option to elect the T4N.1 transect overlay.
- Northgate claims that, as the result of the December 2017 code amendments, its properties have lost a collective \$2 million in value.



# Background



## Map of Northgate Properties





# Overview of Prop 207

- A.R.S. § 12-1134 (also known as Prop 207) provides that if “the existing rights to use, divide, sell or possess private real property are reduced by the enactment or applicability of any land use law enacted after the date the property is transferred to the owner and such action reduces the fair market value of the property the owner is entitled to just compensation from this state or the political subdivision of this state that enacted the land use law.”
- The landowner must make a written demand for a specific amount of just compensation.
- The City has 90 days to pay, amend the law, or permanently waive enforcement of the new land use law on the landowner’s parcel.



# Overview of Prop 207

- If the City does not act, the landowner may file a claim for just compensation in superior court within three years of the date the land use law took effect.
- Just compensation for diminution in value is the reduction in fair market value for the property resulting from the land use law.
- Fair market value is the most likely price which the land would bring if exposed for sale in the open market by a purchaser who buys with knowledge of all the uses and purposes to which it is adapted and for which it is capable.



# Binding Waiver of Enforcement

- Northgate has agreed to accept a limited binding waiver of enforcement to settle its claim.
- If approved by Council, the parties would agree and declare that five of the amendments to the Flagstaff Zoning Code adopted by Ordinance 2017-31 will not be enforced nor applicable to the entirety, or any portion of the Northgate properties, and as result, are not triggered by the Ordinance.



# Binding Waiver of Enforcement

## Five Amendments to be Waived:

- Deletion of prior table 10-50-110.030.A and addition of new table 10-50-110.030.A (removal of Commercial Block from T4N.1).
- Four Standards Applicable to Commercial Block:
  - Addition of “max lot width” and “max lot depth” in section 10-50-110.180.B.
  - Deletion of “primary or” from pedestrian access standards in 10-50.110.180.D.
  - Addition of “access from a side street or alley is preferred” in 10-50.110.180.F.
  - Addition of 10-50.110.180.I relating to Façade Plane.



# Questions?



# Any questions?